



California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

MULTICOUNTY: Metropolitan Water District of Southern California

ADOPTION

MULTICOUNTY: Kingsburg Joint Union School District

A written comment period has been established commencing on **October 7, 2011** and closing on **November 21, 2011**. Written comments should be directed to the Fair Political Practices Commission, Attention Alexandra Castillo, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized representative requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director of the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director of the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **November 21, 2011**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code-reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Alexandra Castillo, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission (the "Commission"), under the authority vested in it under the Political Reform Act (the "Act")¹ by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Commission will consider the proposed regulations at a public hearing on or after **November 10, 2011** at the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California 95814 commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on November 8, 2011.**

BACKGROUND/OVERVIEW

After holding Interested Persons Meetings and gathering input from the public, staff has identified several areas of improvement with regard to the regulations governing enforcement matters. The areas of improvement that staff and the public have identified include revising procedures for hearing probable cause proceedings, procedures for default decisions, allowing potential respondents the ability to communicate with the FPPC before a determination to investigate an enforcement matter is made, allowing discovery before a probable cause proceeding for respondents, and treasurer liability for committee violations in limited situations.

Authority to Hear Probable Cause Proceedings (Regulation 18361.4)

Currently, Regulation 18361.4 provides that the Executive Director may conduct probable cause conferences. The Executive Director has this authority, in addition to having the authority to determine whether to

open an investigation under Regulation 18360 and Government Code Section 83115.5. Currently, Regulation 18361.4 also gives the Executive Director the authority to delegate the hearing of probable cause conferences to an attorney in the Legal Division. In the interests of due process, these two roles for the Executive Director have been separated. The current practice of the FPPC staff is to have the Executive Director delegate his authority to conduct probable cause conferences to a member of the Legal Division staff to avoid any appearance of unfairness to respondents. Members of the public have requested that this procedure be codified by Regulation.

Default Decisions (Proposed Regulation 18361.11)

The Act provides for the administrative enforcement of violations of its provisions. Section 83116 makes the Administrative Procedure Act (APA) applicable to the enforcement of violations pursued by the Commission, thus persons subject to enforcement actions are afforded due process both by the Act and by the APA. Respondents in enforcement actions are afforded the right to an administrative hearing, if they provide a notice of defense within 15 days of personal service of the notice of defense. If no notice of defense is submitted within the 15-day period, the APA allows the Enforcement Division to seek a default finding by the administrative adjudicator in the case. (Section 11520.)

Neither the APA nor the Act, provide a timeline for notice to parties of a default decision. Additionally, the APA and the Act leave room for additional provisions as to the procedure to be followed for seeking to have the Commission vacate a default once entered.

Requests were received from members of the public at an Interested Persons Meeting held by staff earlier this year for additional procedures to be instituted with regard to default proceedings. Establishment of notice provisions both before entry of a default and after a default has been entered, and clarification of post-default processes would provide greater clarity to the Commission, the public, the Enforcement Division and respondents.

Complaints (Regulation 18360)

The Act and its Regulations provide persons accused of violating the Act certain procedural protections. Among them is the requirement that the Commission provide notice to the complainant within fourteen days after the receipt of the complaint, of the course of action the Commission has chosen to take, if any. (Section 83115, Regulation 18360). This notice is commonly referred to as the "14-Day Letter." Regulation 18360 provides that the Executive Director inform the complainant if the Commission will take any of the following actions:

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

“(A) Investigate the allegations of the complaint, in which case the response shall inform the complainant the commencement of an investigation only indicates the complaint alleges a violation of the Act, and the culpability of the person complained against, if any, has not been determined.

“(B) Refer the complaint to another governmental agency.

“(C) Take no action on the complaint because, on the basis of the information provided, the Commission does not appear to have jurisdiction to investigate, but the complainant may provide additional information.

“(D) Take no action on the complaint because the allegations of the complaint, absent the Commission receiving additional information, do not warrant the Commission’s further action for the reason stated.

“(E) Take additional time to evaluate the complaint to determine whether an investigation should ensue and provide an appropriate explanation for the delay. This information shall be provided within successive intervals of no more than 14 days per interval until the Commission notifies the complainant it has acted on the complaint under subparagraphs (A) through (D).”

It is current practice that a determination of whether or not to commence an investigation is made within the 14 days after a complaint is received and before the 14-Day Letter is sent out. At an Interested Persons Meeting held earlier this year, members of the public requested that potential enforcement respondents be given time and opportunity to communicate with the FPPC by submitting evidence on their behalf before a decision is made to go forward with an investigation. It has been common practice to allow respondents to submit evidence on their behalf at any time during the enforcement process, though no regulation requires this.

With regard to sworn complaints, Regulation 18360 requires that the subject of the sworn complaint receive a copy of the complaint within three business days of the time the Commission receives the complaint. There is no regulation in place that requires the Commission to send notice with the copy of the complaint to inform the respondent that a decision to investigate will be made within 14 days of the sworn complaint or that the respondent may have an opportunity to respond to the allegations in the complaint before the Executive Director makes a decision on whether or not to investigate the complaint. It is current Enforcement Division practice to allow such opportunity.

With regard to pro-active complaints, which encompass all complaints other than sworn complaints, Regu-

lation 18360 provides that the Executive Director inform the subject of an alleged violation not later than the time such information is provided to the Commissioners. There is no regulation that currently requires that the Commission provide a respondent 10 days to respond prior to the time an investigation begins. Current practice of the Enforcement Division, however, is to provide notification of the pro-active (non-sworn) complaints to the subject of those complaints and provide ten days to respond before an investigation is commenced.

At an Interested Persons Meeting held earlier this year, members of the public requested that respondents be given an opportunity to respond before a decision to investigate a matter has been made and that this opportunity be codified in a Regulation. Establishment of regulatory provisions requiring notice to respondents of their opportunity to respond before a decision to investigate is made would allow additional due process protections for respondents.

Discovery in Probable Cause Proceedings (Regulation 18361.4)

The Act and its Regulations provide persons accused of violating the Act certain procedural protections. Among them are the requirements that respondents be permitted a probable cause conference. The Enforcement Division must provide evidence sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a respondent committed a violation at the probable cause conference in order for the FPPC to make a finding of probable cause against a respondent. (Section 83115.5, Regulation 18361.4(e).)

Currently, there are no formal provisions in the Act or Regulations to provide for discovery of any type to respondents before a probable cause hearing. Requests were made at an Interested Persons Meeting from the public for an allowance of discovery prior to a probable cause hearing.

Treasurer Liability (Proposed Regulation 18316.6)

Section 84100 of the Political Reform Act (the “Act”) provides:

“Every committee shall have a treasurer. No expenditure shall be made by or on behalf of a committee without the authorization of the treasurer or that of his or her designated agents. No contribution or expenditure shall be accepted or made by or on behalf of a committee at a time when there is a vacancy in the office of treasurer.”

Section 82013 defines the term “committee” to include:

1. Recipient committees, committees which receive contributions of \$1,000 or more in a calendar year

2. Independent expenditure committees, committees which make independent expenditures of \$1,000 or more in a calendar year, and
3. Major donor committees, committees which make contributions of \$1,000 or more in a calendar year.

Recipient committees have ongoing filing obligations under the Act.

Section 84104 further provides that it is the duty of a committee's treasurer to verify that to the best of his or her knowledge the committee's campaign statements are true and complete, and to use all reasonable diligence in the preparation of such statements. Regulation 18427, subdivision (a), specifies the duties of a committee's treasurer with respect to the receipt and expenditure of funds and the reporting of those funds. It provides a treasurer shall:

- “(1) Establish a system of record keeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately, and sufficient to comply with regulations established by the Commission related to record keeping.
- “(2) Either maintain the records personally or monitor such record keeping by others.
- “(3) Take steps to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds and the reporting of funds.
- “(4) Either prepare campaign statements personally, or review with care the campaign statements and underlying records prepared by others.
- “(5) Correct inaccuracies or omissions in campaign statements of which the treasurer knows, and cause to be checked, and, if necessary, corrected, information in campaign statements a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of his or her duties under this regulation and the Act.”

Under Section 83116, the Commission may assess an administrative penalty of up to \$5,000 for a violation of the Act by any person who violates its provisions. A person is potentially liable under the Act if he or she: 1. has filing or reporting obligations under the Act, 2. is compensated for services involving the Act, 3. causes another to violate the Act, or 4. aids and abets another to violate the Act. However, as specified in Section 83116.5, aiding and abetting does not constitute an additional violation under Chapter 11 of the Act commencing with Section 91000.

Section 91006 provides that if two or more persons are responsible for any violation, they shall be jointly and severally liable. Therefore, for example, a committee's treasurer may be held jointly and severally liable,

along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)²

At an Interested Persons Meeting held earlier this year, members of the public expressed concern over the liability of treasurers for committee violations when the treasurer has not been responsible for such violations. This raises two issues:

Issue 1: Treasurer Liability Where Duty is on Candidate.

Pursuant to Section 84100, a treasurer is responsible for actions of a campaign committee, including a candidate-controlled committee, as defined in Section 82016. In most instances a candidate, his or her controlled committee, and the committee's treasurer are jointly liable for a violation of the Act's campaign provisions. This is because many of the campaign provisions of the Act apply to elected officers, candidates, and committees. (See, for example, Section 84200.) Some provisions, however, are applicable only to a candidate or other person, raising questions about whether a treasurer may be held responsible for all violations of a candidate. In some instances no candidate-controlled committee exists. For example, Section 85201, subdivision (h), applies to an “individual” who raises or spends less than \$1,000, and therefore he or she does not qualify as a committee under Section 82013. Also, Section 84206 allows a candidate or officeholder who does not intend to raise \$1,000 or more in contributions or make expenditures totaling \$1,000 or more during a calendar year to file a single short-form campaign statement (Form 470) in lieu of filing semiannual and preelection statements.

Under the provisions of Sections 83116.5, 84100, and 91006, it appears there is no discretion to exclude a treasurer from liability when the violation applies to a committee, including a candidate-controlled committee. However, where there is no controlled committee, and a provision of the Act applies to a candidate or officeholder only, the staff believes there is statutory authority to permit Enforcement Division staff to propose to the Commission that a treasurer be excluded as a respondent. This is because there is no committee to come under the purview of Section 84100, which is the general statute applicable to treasurers. Therefore, this regulatory proposal provides, at subdivision (c), that the Enforcement Division may propose to the Commission that a treasurer be excluded from liability where no committee exists, but only where the treasurer did not cause or aid and abet in the violation.

² Under the current provisions of Section 83116.5, a treasurer or other person with filing obligations cannot be held separately liable for the same violation.

Issue 2: Treasurer Liability Where Duty is on Committee and Treasurer.

Sections 83116.5 and 91006 impose joint and several liability on persons responsible for a violation. This applies to any committee, as defined in Section 82013, which includes recipient committees, independent expenditure committees, and major donor committees. All persons responsible for the actions of a committee, including candidates and treasurers, are usually the named respondents.

A member of the regulated community raised a charging issue with respect to major donor committees at an Interested Persons Meeting held earlier this year. Because a major donor committee is a person who makes contributions of \$10,000 or more, under the provisions of Section 82013, subdivision (c), many of these committees are corporations which hire paid professional treasurers to comply with the campaign provisions of the Act. In these instances, sometimes the professional treasurers wish to assume all responsibility for a violation of the Act, as their clients rely on them exclusively to comply with its provisions.

The issue is whether the Enforcement Division has discretion under the provisions of Sections 83116.5 and 91006 to hold only a treasurer responsible for failing to comply with a campaign reporting duty imposed upon a committee. The statutes can be read to apply to one person. This is because Section 91006 applies where two or more persons are “responsible” for a violation.

REGULATORY ACTION

Authority to Hear Probable Cause Proceedings

Amend 2 Cal. Code Regs. Section 18361

This proposed regulation codifies current practice in the interest of due process for respondents by requiring the Executive Director to delegate his authority to the General Counsel, a member of the Legal Division, or to an Administrative Law Judge.

The proposed amendment breaks Regulation 18361 into two subdivisions. Subdivision (a) contains the language from the original version of Regulation 18361, minus the sections related to probable cause hearings contained in 18361.4. Subdivision (b) states explicitly that the General Counsel or an attorney in the Legal Division will hear probable cause proceedings. There is also a provision that remains in the regulation that a probable cause proceeding can be heard by an Administrative Law Judge, this is meant to be in cases where all attorneys have a conflict in presiding over the hearing. This would be under very rare circumstances. The purpose of this proposal is to resolve any due process issues related to having the same individual decide to open an investigation and make findings of probable cause.

Default Decisions

Amend 2 Cal. Code Regs. Section 18361.11

The proposed regulation addresses the issues raised by proposing additional default procedures to those currently in the Act and in the APA without contradicting them. Specifically, the regulation adds the following provisions:

Subdivision (a) adds a requirement that the respondent be notified of the default by the Enforcement Division within 15 days of the date of the hearing at which the default will be heard. The APA does not require such notice. It is currently the Enforcement Division practice to provide such notice, and this just codifies current practice.

Subdivision (b) requires the Enforcement Division to provide a Default Decision and Order and Exhibit to the Commission within 10 days of the hearing at which the default is scheduled to be heard. This conforms with current practice of the posting of public notice of the agenda 10 days ahead of the hearing as required by State open meeting laws, and the transmission of the agenda packets to Commissioners.

Subdivision (c) allows respondents to provide the Commission and Enforcement Division with a response brief and any materials they wish to present to the Commission at least five days before the hearing. This is a new requirement. It will allow the Commission time to properly review all materials and give the Enforcement Division adequate time to review and respond. However, it still allows the Commission the flexibility to accept any materials at the hearing, if desired.

Subdivision (d) restates the provision of the APA that allows the Commission to review and consider any evidence it wishes at the default hearing.

Subdivision (e) clarifies the method of service for both the default judgment once entered and for any motion to vacate by the respondent to be by first class mail. This codifies existing Enforcement Division practices.

Complaints

Amend 2 Cal. Code Regs. Section 18360

The proposed amendments add a requirement to Regulation 18360 subdivision (f)(2) that the three-day notification letter also advise the subject of the complaint that a decision on whether or not to open an investigation will be made within fourteen days from the date of the sworn complaint and of the subject’s opportunity to provide evidence in his or her defense prior to the time a decision is made.

Additionally, the proposed amendment deletes the current language requiring the notification of the subject of a pro-active complaint that there is an investigation not later than the time the Commission is notified. Instead, language that requires the subject of pro-active complaints to be notified of the allegations and be given ten days to respond before an investigation is commenced is added.

These proposed amendments codify existing Enforcement Division practice and provide additional due process protections to the subjects of complaints.

Discovery in Probable Cause Proceedings

Amend 2 Cal. Code Regs. Section 18361.4

In the interests of due process, this regulation will provide for a limited right of discovery for respondents in probable cause proceedings so they may receive evidence relied upon by the Enforcement Division sufficient to establish probable cause, along with any exculpatory or mitigating evidence.

The proposed amendment breaks subsection (c) of Regulation 18361.4 into three subdivisions. Subdivision (a)(2) contains new language providing respondents with a limited right to discovery. The standard proposed for discovery is that of evidence relied upon by the Enforcement Division sufficient to meet the standard of proof required for a probable cause hearing, namely that the evidence is sufficient to lead a person of ordinary caution and prudence to believe or entertain a strong suspicion that a proposed respondent committed or caused a violation.

The proposed amendment also “tolls” the time period for the filing of a response until 21 days after the respondent receives the discovery. Currently, the regulation provides respondents 21 days to file a written response from the date of receipt of the probable cause report.

The amendment requires respondents to request discovery, rather than have it sent automatically with a probable cause report. This was drafted in recognition that most respondents do not request a probable cause hearing, and the administrative burden of providing the oftentimes voluminous documents in case files would be overly burdensome to the Enforcement Division, as well as potentially expensive for the respondents for costs of duplication of documents.

Because Regulation 18361 is also a part of this package and the proposed changes to that Regulation would require that either the General Counsel or an attorney in the Legal Division preside over a probable cause hearing rather than the Executive Director, proposed amendments to Regulation 18361.4 also change the term Executive Director to either Commission Assis-

tant or Hearing Officer when appropriate. The Commission Assistant would become the person with whom documents in relation to probable cause hearings would be filed and the commission assistant would also be responsible for scheduling hearing dates and times.

Treasurer Liability

Adopt 2 Cal. Code Regs. Section 18316.6

The regulatory proposal is intended to give the Enforcement Division the discretion to hold the party who violated the Act in limited circumstances solely accountable, notably in the case of a major donor committee because often major donor committees can be one-time committees that make a single contribution and rely on paid treasurers to do their filing. Proposed Regulation 18316.6 would provide the following:

1. Subdivisions (a) and (b). These subdivisions restate the general rules regarding treasurer duties and liability under Sections 83116.5, 84100, and 84104, and Regulation 18427.
2. Subdivision (c). This subdivision provides that while a treasurer may be held liable for a violation of the Act for failing to abide by his or her duties concerning the filing of campaign statements, the Enforcement Division has the discretion to recommend to the Commission that a treasurer not be held responsible for a violation of a duty imposed only upon a candidate, if the candidate does not have a controlled committee, the treasurer did not cause the violation, and the treasurer did not aid and abet the candidate in the violation.
3. Subdivision (d). This subdivision defines who is a responsible person within the meaning of Section 91006, for the specified narrow circumstance involving major donor committees and their paid professional treasurers. The subdivision provides that where a professional treasurer of a committee is compensated to perform any duty specified in Regulation 18427 applicable to a major donor committee, and there is a showing that he or she caused that committee to violate the Act, the Enforcement Division has discretion to recommend that a treasurer be held solely responsible for the violation. This language is drafted narrowly to address a concern raised by a professional treasurer while not discouraging volunteers from serving as treasurers. This would occur, for example, if the language was too broad as to encompass recipient committees, as defined in Section 82013, subdivision (a).

The staff believes the regulatory language is consistent with the provisions of Section 91006, which requires two or more persons who violate a provision of the Act to be held jointly and severally liable. The language provides guidance to the Enforcement Division as to narrow circumstances where a paid professional treasurer may be determined to be the only person responsible for a violation.

The proposed regulation will provide clarity on the issues raised and provide the ability to relieve treasurers of liability under the Act in narrow circumstances to provide efficient administration of the enforcement provisions.

SCOPE

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of these regulations is to implement, interpret, and make specific Government Code Sections 83115, 83115.5, 83116, 83116.5, 84100, 84104 and 91006.

CONTACT

Any inquiries should be made to Sukhi K. Brar, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or

1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.php?id=247#2>.

TITLE 2. VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD

CLAIMS OF PERSONS ERRONEOUSLY CONVICTED OF FELONIES

California Code of Regulations, Title 2, Division 2, Chapter 1, Article 5, Section 640

The Victim Compensation and Government Claims Board (Board) proposes to amend the regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action; however, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days before the close of the written comment period.

WRITTEN COMMENT PERIOD

Any interested individual, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m. on November 21, 2011. The Board will consider only comments received at the Board's office by that time. Submit comments to:

Geoff Feusahrens
Regulations Analyst
Victim Compensation and Government
Claims Board
400 R Street, Suite 500
Sacramento, CA 95811

Comments may also be submitted by facsimile (FAX) at (916) 491-6441 or by e-mail to regulations@vcgcb.ca.gov.

AUTHORITY AND REFERENCE

Government Code section 13920 authorizes the Board to adopt regulations. The proposed amendment implements, interprets and makes specific sections 11425.10(a), 11425.50, 11440.30, 11445.10(a),

11445.20(c), 11445.30, 11465.70(c), and *Diola v. Board of Control* (1982) 135 Cal.App.3d 580, 588, fn 7; *Tennison v. Victim Compensation and Government Claims Board* (2000) 152 Cal. App. 4th 1164.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Penal Code sections 4900 through 4906 require that the Victim Compensation and Government Claims Board (Board) process claims of persons who were erroneously convicted of felonies. In California Code of Regulations, Title 2, Section 640, claimants are required to file a claim for compensation on an Erroneously Convicted Person Claim Form. This form requires information about the conviction, incarceration, and release from prison.

The current claim form does not require a claimant to provide his or her date of birth or his or her California Department of Corrections and Rehabilitation Inmate Number. The lack of this information impedes the determination of whether the claimant actually was convicted of a felony and was sentenced to and incarcerated in a state prison.

The Board therefore proposes to amend the Erroneously Convicted Person Claim Form to require a claimant to provide his or her California Department of Corrections and Rehabilitation inmate number and date of birth.

It is necessary to require a claimant to provide his or her date of birth and his or her California Department of Corrections and Rehabilitation Inmate Number because this information will assist the hearing officer in verifying that the claimant was convicted of a felony and was sentenced to and incarcerated in a state prison.

FORM INCORPORATED BY REFERENCE

Erroneously Convicted Felon Claim Form (Rev. September 2011)

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has made the following initial determinations:

Mandate on local agencies and school districts: None.
Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting businesses including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private individual or business: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of this amendment to the regulation will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

SMALL BUSINESS DETERMINATION

The Board has determined that the proposed amendment to the regulation does not affect small businesses because the amendment merely asks a claimant to provide information that will assist in the verification of his claim for compensation.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a), paragraph (13), the Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private individuals than the proposed action.

The Board invites interested individuals to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed administrative action may be directed to:

Geoff Feusahrens
Regulations Analyst
Victim Compensation and Government
Claims Board
400 R Street, Suite 500
Sacramento, CA 95811
Telephone: (916) 491-3863

The backup contact person for these inquiries is:

Kyle Hedum
Staff Counsel III
Victim Compensation and Government
Claims Board
400 R Street, Suite 500
Sacramento, CA 95811
Telephone: (916) 491-3605

Please direct requests for copies of the proposed text of the regulation, the Initial Statement of Reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Geoff Feusahrens at the above address.

AVAILABILITY OF STATEMENT OF REASONS,
TEXT OF PROPOSED REGULATION, AND
RULEMAKING FILE

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations and the Initial Statement of Reasons. Copies may be obtained by contacting Geoff Feusahrens at the address or phone number listed above.

AVAILABILITY OF CHANGED OR
MODIFIED TEXT

After holding a hearing, if any, and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text available to the public at least 15 days before the Board adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Geoff Feusahrens at the address indicated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT
OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Geoff Feusahrens at the above address.

AVAILABILITY OF DOCUMENTS ON
THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons and the proposed text of

the regulations in underline and strikeout can be accessed through our website at www.vcgcb.ca.gov.

**TITLE 4. CALIFORNIA SCHOOL
FINANCE AUTHORITY**

**NOTICE OF PROPOSED
RULEMAKING ACTION**

**Article 2, Sections 10176, 10177, 10178,
10182, and 10188
Title 4, Division 15
California Code of Regulations**

NOTICE IS HEREBY GIVEN that the California School Finance Authority (CSFA), organized and operating pursuant to Sections 17170 through 17199.5 of the Education Code, proposes to amend the regulations described below after considering all comments, objections, and recommendations regarding the proposed action. Any person interested may present written statements or arguments relevant to the proposed action to the attention of the Contact Person as listed in this Notice no later than 5:00 p.m. on Monday, November 21, 2011. The CSFA Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposal if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person(s) designated in this notice as Contact Person and will be mailed to those persons who submit statements related to this proposal or who have requested notification of any changes to the proposal.

PROPOSED REGULATORY ACTION

CSFA proposes to amend Sections 10176, 10177, 10178, 10182, and 10188 of Title 4 of the California Code of Regulations (Regulations). The Regulations implement CSFA's responsibilities related to the State Charter School Facilities Incentive Grants Program (Grant).

AUTHORITY AND REFERENCE

Authority: Sections 17179 and 17180, Education Code. Section 17179 provides CSFA with the authority to do all things reasonably necessary to carry out its responsibilities. Section 17180(a) of the Education Code

provides CSFA the authority to adopt bylaws for the regulation of its affairs and the conduct of its business. Subdivision (d) provides CSFA with the authority to receive and accept grants from the federal government. Subdivision (o) allows CSFA with the authority to adopt guidelines for grants.

Reference: Sections 17078.52–17078.66 of the Education Code, section 17180(d) of the Education Code; and section 47600, et seq., of the Education Code. These Regulations implement the State Charter School Facilities Incentive Grants Program (Grant) and include a number of the requirements of that program contained in the reference code provisions and their implementing Regulations. They also rely on a number of provisions in the Charter Schools Act of 1992, commencing with section 47600 of the Education Code. Section 17180(d) provides CSFA with the authority to receive grants from the federal government.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CSFA was created in 1985 to assist school districts and community college districts in financing school construction projects (Education Code section 17170, et seq.). CSFA is authorized to adopt bylaws for the regulation and conduct of its business, is vested with all powers reasonably necessary to carry out its powers and responsibilities, and may receive and accept grants from a federal agency (Education Code sections 17179 and 17180).

In 2004 and 2009, the United States Department of Education approved grant awards to CSFA pursuant to the State Charter School Facilities Incentive Grants Program (Grant), authorized under Title V, Part B, Subpart 1 of the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001. The Grant provides for \$49,250,000 in 2004 and \$46,132,749 in 2009 to be awarded over five-year periods for the purposes of funding per-pupil facilities aid programs for California charter schools. Grant funds may be applied toward a charter school's annual costs of rent, lease, mortgage, or debt service payments for facilities or toward the purchase, design, and construction costs of acquiring land and constructing or renovating a facility.

Pursuant to the federal rules governing the Grants, an annual portion of the funds must be allocated during each of five consecutive federal fiscal years. The first funding round began on June 28, 2005 when an emergency rulemaking file was approved by the Office of Administrative Law. Permanent Regulations implementing the Grant were approved March 24, 2006.

The allocation of these grant funds to eligible charter schools is based on preference points assigned for certain factors, including the low income population served by the school as reported by the percentage of students eligible to receive free/reduced price meals, the school's nonprofit status, whether a school is located in an overcrowded attendance area, and the school's performance in relation to API (Annual Performance Index), AYP (Adequate Yearly Progress) and in comparison to its nearby public schools.

The amendments to the Regulations are briefly summarized below and are intended to clarify the requirements, remove the preference point category relating to a charter school being located within an overcrowded school district, and expand the criterion for overcrowded school site based on locale code, as defined by the U.S. Department of Education, in order to account for population density.

Section 10176: Amendments include definitions for Locale Code, National Center for Education Statistics, and Proposition 39 pro-rata payment.

Section 10177: Clarifies that demonstration of eligible costs is one criterion for being an eligible applicant.

Section 10178: Clarifies that eligible costs may include any combination of costs for rent, lease, mortgage, Proposition 39 pro rata costs, and debt service. Deletes statement to correct that current costs for purchase/construction/renovation related to a project designated in a prior grant award may be eligible under the current funding round. Amends statement relative to the authority's review of current costs to clarify that the authority may review any ongoing costs associated with a charter school facility, rather than only an existing lease, rent, mortgage, or debt.

Section 10182: Deletes the preference point criterion of Overcrowded School District in subdivision (b)(2). Amends the language in Overcrowded School Site to include increasing the radius in miles for driving distance to a public school designated as an overcrowded school site. Also adding the following language, "The driving distance will be determined by the Locale Code assigned by the U.S. Department of Education, and found on the National Center for Education Statistics website. The following table will be used to determine the maximum driving distance to receive preference points in this category" and a table to determine locale code names and mile radius for reference. These amendments were done to expand the criterion for overcrowded school site based on locale code in order to account for population density, allowing driving distances

up to ten miles based on the categories of “suburb,” “town,” and “rural.” Clarifies language to allow the authority to use any relevant data that the California Department of Education provides to the authority; not only data posted on the CDE website. Amends subdivisions (e)(1) and (e)(2) relative to School Choice based on AYP and API academic performance, respectively, to include the increase in radius in miles based on the locale code of the applicant school. This category was amended to expand criterion to account for population density as defined by locale code, allowing longer driving distances for schools in the categories of “suburb,” “town,” and “rural.” Also amends ‘posted’ to ‘provided’ to clarify data provided by the California Department of Education may be provided by other ways than only “posting on its website.”

Section 10188: Amends subdivisions (e)(3), (4), and (5) by changing the August 30th date to August 31st. Amended to reflect the last day of August as the semi-annual deadline to verify ongoing eligibility. Adds subdivision (e)(6) to clarify that consecutive failure to meet semi-annual deadlines for submission of documentation will result in the subgrantee being ineligible for all remaining disbursements.

OTHER MATTERS PRESCRIBED BY STATUTES APPLICABLE TO THE SPECIFIC STATE AGENCY OR TO ANY SPECIFIC REGULATION OR CLASS OF REGULATIONS

No other matters prescribed by statute are applicable to CSFA or to any specific Regulation or class of Regulations pursuant to Section 11346.5(a)(4) of the California Government Code pertaining to the proposed Regulations or CSFA.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CSFA has determined that the Regulations do not impose a mandate on local agencies or school districts.

FISCAL IMPACT

CSFA has determined that the Regulations do not impose any additional cost or savings to any state agency, any costs to any local agency or school district requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other non-discretionary cost or savings to any local agency, or any cost or savings in federal funding to the State.

While CSFA will incur additional expenses in implementing and administering the Grant, the U.S. Department of Education provides that CSFA may charge such additional expenses for CSFA’s administrative costs against the Grant, up to five percent. Therefore, there is no fiscal impact on the State’s General Fund or requirement of additional appropriations by the Legislature. There will be no cost or savings to any State Agency pursuant to Government Code Sections 11346.1(b) or 11346.5(a)(6).

INITIAL DETERMINATION REGARDING ANY SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

CSFA has made an initial determination that the Regulations will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES

CSFA has determined that the adoption of the Regulations will not affect small business. The Grant is a voluntary financing program available to charter schools to assist in the financing of charter school facilities.

COST IMPACTS

The CSFA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF EFFECT ON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

COST IMPACT ON HOUSING

The Regulations will not have any effect on housing costs.

REASONABLE ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), CSFA must determine that no reason-

able alternative to the Regulations considered by CSFA or that has otherwise been identified and brought to the attention of CSFA would be more effective in carrying out the purpose for which the Regulations are proposed or would be as effective and less burdensome to affected private persons than the Regulations.

CSFA invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

AGENCY CONTACT PERSON(S)

Written comments, inquiries, and any questions regarding the substance of the Regulations shall be submitted or directed to:

Katrina Johantgen, Executive Director
California School Finance Authority

at:

304 South Broadway, Suite 550
Los Angeles, CA 90013-1224
(213) 620-4467

or

915 Capitol Mall, Room 222
Sacramento, CA 95814
(916) 651-7710

or

kjohantgena@treasurer.ca.gov

csfa@treasurer.ca.gov

The following person is designated as a backup contact person for inquiries only regarding the Regulations:

Deborah Yang, Staff Counsel
State Treasurer's Office
915 Capitol Mall, Room 110
Sacramento, CA 95814
(916) 653-2995

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the Regulations to CSFA. The written comment period on the Regulations will end at 5:00 p.m. on Monday, November 21, 2011. All comments to be considered by CSFA must be submitted in writing to the Agency Contact Person identified in this Notice by that time. In the event that changes are made to the Regulations during the written comment period, CSFA will also accept additional written comments limited to any changed or

modified Regulations for 15 calendar days after the date on which such Regulations, as changed or modified, are made available to the public pursuant to title 1, Chapter 1, Section 44 of the California Code of Regulations. Such additional written comments should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF INITIAL STATEMENT OF REASONS, RULEMAKING FILE AND EXPRESS TERMS OF PROPOSED REGULATIONS

CSFA has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at CSFA's office at 915 Capitol Mall, Sacramento, California, during normal business hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons, and the proposed text of the Regulations. Copies of these items are available upon request, from the Agency Contact Person designated in this Notice. The Sacramento address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. In addition, the rulemaking file, including the Initial Statement of Reasons and the proposed text, may be viewed on CSFA's Web site at www.treasurer.ca.gov/csfa.

PUBLIC HEARING

No public hearing regarding the Regulations has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to CSFA at least 15 days before the end of the written comment period. Such request should be addressed to the Agency Contact Person identified in this Notice and should specify the Regulations for which the hearing is being requested.

15-DAY AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the written comment period ends and following a public hearing, if any is requested, CSFA may adopt the Regulations substantially as described in this Notice, without further notice. If CSFA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public (including through CSFA's Web site described above) for at least fifteen (15) calendar days before CSFA adopts the proposed Regulations, as modified. Inquiries about and requests for written copies of any changed or modified regulations should be addressed to the Agency Contact Person identified in this Notice.

AVAILABILITY OF FINAL STATEMENT OF REASONS

CSFA is required to prepare a Final Statement of Reasons pursuant to Government Code Section 11346.9. Once CSFA has prepared a Final Statement of Reasons, a copy will be made available to anyone who requests a copy and will be available on CSFA's Web site described above. Written requests for copies should be addressed to the Agency Contact Person identified in this Notice.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING

Utility Clearing Exemption Extension, 2011

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations of Title 14 of the California Code of Regulations (14 CCR) Division 1.5, Chapter 7 [Fire Protection], and Article 4, described below after considering all comments, objections, and recommendations regarding the proposed action.

Amend:

§ 1257 Exempt Minimum Clearance Provisions — PRC § 4293

PUBLIC HEARING

The Board will hold a public hearing on Wednesday, December 7, 2011, starting at 8:00 a.m., at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regula-

tory action to the Board. The written comment period ends at 5:00 p.m., on Monday, November 22, 2011. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Eric Huff
Assistant Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA 95814

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Under the authority of PRC 4292 and 4293, the Board is amending Article 4, Chapter 7, to Title 14 California Code of Regulations. References include Sections 4111, 4125 to 4128, and 4292-4296 of the Public Resources Code. The statutes authorize the Board to make and enforce regulations necessary for the organization, maintenance, governance and direction of fire protective systems for prevention and suppression of forest fires. The statute also requires any entity who maintains any electrical transmission or distribution infrastructure in wildlands to maintain around power lines and associated conduits, a fire break, which consists of clearing certain distances around the outer circumference of the pole, wire, or tower.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed regulation makes permanent an existing regulation for fire prevention standards for electri-

cal utilities. The existing regulation includes an exemption to the utility vegetation clearing requirements in § 1257. The exemption allows for healthy, mature trees (trunks and limbs), that are sufficiently rigid so they do not present a risk to public safety, to be closer to powerlines than the minimum clearing distance under existing regulations. These trees/limbs are commonly referred to as “Major Woody Stems,” or the by the acronym, “MWS.”

SPECIFIC PURPOSE OF THE REGULATION

Modify and make permanent an existing regulation, 14 CCR § 1257, to allow for continuation of the existing utility clearing exemption. The exemption to the utility vegetation clearing requirements allows for mature trees (Major Woody Stems, or MWS) to be closer to powerlines than the minimum clearing distance in State regulations.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None.
- Costs or savings to any State agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None.
- Other non-discretionary cost or savings imposed upon local agencies: None.
- Cost or savings in federal funding to the State: None.
- The Board has made an initial determination that there will be no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: The board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Significant effect on housing costs: None.

- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business. The amendment extends an exemption to existing clearing standards, reducing the clearing requirement for MWS to a minimum of six inches. This reduction in the clearing requirements is estimated to have a significant positive financial effect for utilities, and potentially utility rate payers, due to the lesser amount of vegetation removal or installation of insulation around line for compliance with existing rules.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
Attn: Eric Huff
Assistant Executive Officer
P.O. Box 944246
Sacramento, CA 94244-2460
Telephone: (916) 653-8031

The designated backup person in the event Mr. Huff is not available is Mr. George Genty, Executive Officer of the California Board of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request. When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the Board web site at: http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

TITLE 16. DENTAL BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Dental Board of California (hereinafter “Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**Department of Consumer Affairs
2005 Evergreen Street, 1st Floor Hearing Room
Sacramento, California 95815
Tuesday, November 22, 2011
10:00 a.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on Monday, November 21, 2011 or must be received by the Board at the hearing. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 1614 of the Business and Professions Code, and to implement, interpret or make specific Sections 144, 480 and 901 of said Code, the Board is considering changes to Division 10 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board currently regulates 72,866 licensees, consisting of 37,508 dentists, 34,084 registered dental assistants, and 1,277 registered dental assistants in extended functions. The Board’s highest priority is the protection of the public when exercising its licensing, regulatory, and disciplinary functions. The primary methods by which the Board achieves this goal are: issuing licenses to eligible applicants; investigating complaints against licensees and disciplining licensees for violating the Dental Practice Act (DPA); monitoring licensees whose license has been placed on probation; and managing the Diversion Program for licensees,

whose practice may be impaired due to abuse of dangerous drugs or alcohol.

Business and Professions Code Section 1614 authorizes the Board to adopt, amend, or repeal such rules and regulations as may be reasonably necessary to enable the Board to carry into effect the provisions of the Dental Practice Act.

Business and Professions Code Section 901 provides an exemption for a health care practitioner, licensed or certified in another state, from the licensing and regulatory requirements of the applicable California healing arts board. To be exempted from California licensure requirements, a health care practitioner may provide services at a sponsored healthcare event to uninsured or underinsured people on a short-term, voluntary basis. Section 901 requires the out-of-state health care provider to seek authorization from the applicable healing arts board in California. Section 901 provides the regulatory framework for the approval of an out-of-state health care practitioner and a sponsoring entity to seek approval from the applicable healing arts boards. However, each individual healing arts board is responsible for promulgating regulations to prescribe the specific requirements for the approval of an out-of-state practitioner and a sponsoring entity.

The primary purpose of these proposed regulations is to implement, interpret and make specific the provisions of Section 901, as it pertains to licensed dentists, including the application and registration requirements, disciplinary actions, recordkeeping requirements and provisions for termination for the exemption of an out-of-state licensed dentist who wishes to participate in a sponsored free health care event. The Registration of Sponsoring Entity Form DBC-901-A (02/2011) and the Request for Authorization to Practice without a License Form DBC-901-B (02/2011) are incorporated by reference. The board's highest priority is the protection of the public and these proposed regulations are intended to implement section 901 in a manner that will provide the greatest protection for the people of California.

The Board is proposing the following changes:

Adopt Section 1023.15 of Chapter 1, Article 8 of Division 10 of Title 16 of the California Code of Regulations (Sponsored Free Health Care Events — Requirements for Exemption):

This proposal adopts a new Article 8, Section 1023.15 to define the terms "community based organization", "out-of-state practitioner", and "in good standing" for the purposes of this Section. These terms are either not currently defined in the statute or require further clarification.

Adopt Section 1023.16 of Chapter 1, Article 8 of Division 10 of Title 16 of the California Code of Regula-

tions (Sponsoring Entity Registration and Recordkeeping Requirements):

This proposed section establishes a timeframe for submission of a sponsoring entity's registration form, which is 90 days prior to the event, prescribes the registration form (DBC-901-A) (02/2011) to be used, and incorporates the form by reference. Form DBC-901-A would include the following:

- Provide filing requirements and disclosures regarding qualifications for registration as well as deadlines for filing a completed application 90 days in advance of the event.
- Part 1 — Requires the applicant to disclose organization name, organization contact information, type of organization, the organization's tax identification number and if the organization is community-based, disclose its mission, goals and activities.
- Part 2 — Requires the applicant to provide a list of responsible organization officials that includes the name, address, title, phone number and email address of each responsible official.
- Part 3 — Requires the applicant to disclose event details including: name of the event, date(s) of the event, location(s) of the event, a description of the intended event, a list of all out-of-state health care practitioners the organization currently intends to apply for the event (name, profession and state of licensure required), and disclose each licensing authority that will have jurisdiction over an out-of-state licensed health care practitioner.
- Provide a notice regarding collection and use of personal information given on the application.
- Provide notice regarding requirements for each out-of-state practitioner practicing at the event, including submission of the required Form DBC-901-B in advance of the event.
- Provide notice of the requirements for the maintenance of records for 5 years in California and for filing a report with the Board within 15 calendar days of the completion of the event.
- Require the applicant to certify their statements under penalty of perjury and attest that the individual is authorized to sign on behalf of the organization.

This section would also allow the board to, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process Form DBC-901-A on behalf of the board and specify that the board shall inform the sponsoring entity within 15 days of receipt that the form is either complete and the entity is registered or that the form is deficient and what specific information or documentation is required to complete the

form and be registered. The proposed section allows the board or its delegates to reject the form if all of the identified deficiencies have not been corrected at least 30 days prior to the event. This proposed section implements and makes specific the recordkeeping requirements of sponsoring entities set forth in Section 901(g) and clarifies that authorization must be provided before a sponsoring entity may allow an out-of-state practitioner to participate in a sponsored event. This proposed section specifies the information to be provided in the report required under Section 901(f).

Adopt Section 1023.17 of Chapter 1, Article 8 of Division 10 of Title 16 of the California Code of Regulations (Out-of-State Practitioner Authorization to Participate in Sponsored Event)

This proposed section provides the mechanism by which an out-of-state practitioner may request authorization to participate in a sponsored event: completion of Form DBC-901-B (02/2011). Form DBC-901-B would include the following:

- Part 1 — Requires the applicant to provide: a completed application, a \$100 processing fee to the board (or \$151 fee if using “ink on cards” to have fingerprints made), a copy of each current license authorizing the applicant to engage in the practice of dentistry in another jurisdiction, a copy of a valid photo identification issued from another jurisdiction, copies of certificates of completion of at least 50 units of continuing education, any documents or statements requested on the application, and fingerprints.
- Part 2 — Requires the applicant to disclose: name, social security number, contact information, employer, and employer’s contact information.
- Part 3 — Requires the applicant to respond regarding: current licensure in another state, district or territory of the United States; continuing education; any pending investigations by any governmental entity; any past or pending charges against a dental license; disciplinary actions taken against any healing arts license; surrender of a dental license; malpractice settlements or judgments; criminal convictions; permits to prescribe controlled substances from the federal Drug Enforcement Agency (DEA); current physical or mental impairment related to drugs or alcohol; and, mental incompetency or conservatorship.
- Part 4 — Requires the applicant to provide: name of non-profit or community-based organization hosting the event, name of event, date(s) and location(s) of the event, date(s) and location(s) applicant will be performing healthcare services, the healthcare services the applicant intends to

provide, and the name and phone number of the contact person with the sponsoring entity.

- Part 5 — Requires the applicant to acknowledge and certify the following: (1) agree to comply with applicable practice requirements and regulations of the board; (2) agree to practice only within the scope of his/her licensure; (3) agree to provide services only to uninsured or underinsured persons at no cost; (4) agree to provide services only in association with the sponsoring entity and the event(s); (5) agree to be responsible for knowing and complying with California law and practice standards; (6) agree to permit the board to notify the licensing authority of the applicant’s home jurisdiction of any potential grounds for discipline associated with the event; (7) acknowledge that practice without proper licensure may subject the applicant to administrative, civil and/or criminal penalties; and, (8) certify that the applicant has read the questions in the application and that all information is true and complete to the best of the applicant’s knowledge.
- Notification that completion and submission of the application grants permission to the board to verify and investigate any information provided.
- Notification regarding collection and use of personal information given on the application.
- Notification that the applicant’s signature on the application authorizes the National Practitioner Data Bank (NPDB) and the DEA to release any and all information required by the board.
- Notification that authorization will not be issued until clearance has been received from the California Department of Justice and the Federal Bureau of Investigation.

This proposal would also set forth the standard 20-day timeframe from the receipt of a completed application in which the board shall grant or deny the authorization request. This section would set forth the criteria under which the board must or may deny a request for authorization to participate and would provide an appeal procedure for an applicant who has had a request for authorization to participate denied by the board.

Adopt Section 1023.18 of Chapter 1, Article 8 of Division 10 of Title 16 of the California Code of Regulations (Termination of Authorization and Appeal)

This proposed section provides the grounds upon which the board may terminate the authorization to participate previously granted to an out-of-state practitioner, specifies that written notice of termination, including the basis for the termination, shall be given to both the sponsoring entity and the out-of-state practitioner. If the written notice is provided during the sponsoring

event, then this proposal would permit the board to provide notice to any representative of the sponsored event on the premises of the event. This provision would also set forth the consequences of a termination of authorization to participate and how the board will report the fact of such termination to the NPDB and the applicable out-of-state licensing entity, and provides the procedure for appealing denials of authorization and terminations of authorizations to participate, including an informal hearing under the Administrative Procedure Act (APA) for appeals submitted by out-of-state practitioners.

Adopt Section 1023.19 of Chapter 1, Article 8 of Division 10 of Title 16 of the California Code of Regulations (Additional Practice Requirements for Out of State Practitioners Authorized to Participate in Sponsored Free Health Care Events)

This section would specify that each out-of-state practitioner authorized to participate in a sponsored event must provide written notification regarding the practitioner's license status and a disclosure about the scope of authorization to practice in California to each prospective patient prior to performing any services, and the form of the notification. This proposal would require each out-of-state practitioner to provide this notice separate and apart from all other notices given to the patient and would require that the notice be retained by the patient.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: It is unknown how many sponsors of free healthcare events and how many volunteer out-of-state licensees may apply to the Board as a result of these regulations. However, the Board estimates that it will receive at least 250 applications per year from out-of-state dentists seeking authorization to provide services at sponsored free health care events. In order for the Board to absorb the workload associated with processing the requests for authorization from the out-of-state dentists, the Board will need to charge a \$100 non-refundable processing fee (\$151 for individuals who have to submit fingerprints on cards and not via Live Scan). This fee will offset the costs associated with staff's processing of the application.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Business Impact/Significant Statewide Adverse Economic Impact Directly Affecting Business, Including Ability to Compete:

These proposed regulations will provide the Dental Board of California (Board) with the means to implement, interpret, and make specific Business and Professions Code (Code) Section 901, as it pertains to licensed dentists, including application and registration requirements, disciplinary actions, recordkeeping requirements and provisions for termination of authorization for an out-of-state licensed dentist who wishes to participate in a sponsored free health care event. The Board has estimated that this proposed regulation will not have a significant economic impact on the private sector.

Sponsoring entities may incur nominal expenses associated with submitting the registration form to the Board, and complying with recordkeeping requirements, and reporting requirements. Sponsoring entities shall be responsible for submitting the registration Form DBC-901-A (02/2011) to the Board. Expenses associated with submitting the registration form include printing and mailing; these expenses are minimal and should not have a significant fiscal impact on sponsoring entities. Additionally, sponsoring entities shall be responsible for maintaining copies of all records required by Code Section 901, as well as the copy of the authorization for participation issued by the Board to an out-of-state practitioner at a physical location in California. The records must be maintained for a period of at least five years after the date the sponsored event ended; the records may be kept in electronic or paper form. The sponsoring entity shall also be responsible for maintaining copies of all records required by Code Section 901(g) at the physical location of the sponsored event. Expenses associated with these recordkeeping requirements are nominal and include storage and transportation of the required records; these expenses are minimal and should not have a significant fiscal impact on sponsoring entities. Finally, the sponsoring entity shall be responsible for providing a report to the Board summarizing the details of the sponsored event within fifteen days after the conclusion of such event. The report may be provided to the Board on a form of the sponsoring entity's choosing. Expenses associated with these reporting requirements are nominal and include printing and postage; these expenses are minimal and should not have a significant fiscal impact on sponsoring entities.

Out-of-state dentists seeking authorization from the Board to participate in a sponsored event will incur a \$100 fee for application processing. Additionally, applicants will incur costs associated with furnishing fingerprints for the purpose of the Board conducting a criminal history check. These costs are necessary for

the protection of the public and to provide staff time and resources for registration of sponsored events and volunteer out-of-state practitioners in the short timeframes set in the statute.

This regulation will have a positive impact on the health of uninsured or underinsured Californians that are currently unable to receive dental care due to lack of funding and resources.

There may also be benefits to private businesses that are not able to provide dental care to employees. Many small businesses are legally required to provide health care, but are not required to provide dental care. Poor oral health can impact the total health of an individual. These regulations will benefit the health of Californians who attend sponsored events, in addition to providing public protection through registration of out-of-state volunteer dentists.

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal would not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

The proposed regulations impact those out-of-state health care practitioners applying to the Dental Board of California to participate in community-based organizations that provide sponsored free health care events in California.

The proposed regulations may provide an opportunity for out-of-state licensed volunteers to participate in community sponsored free health care events.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Sponsors of free health care events and out-of-state practitioners will incur minimal costs to apply and register with the board in compliance with the statute and these regulations. Out-of-state dentists seeking authorization from the Board to participate in a sponsored event will incur a \$100 fee for application processing. Additionally, applicants will incur costs associated with furnishing fingerprints for the purpose of the Board conducting a criminal history check. The cost for a person to get fingerprinted is approximately \$70.00. Of this fee, \$56.00 goes to the Department of Justice for conducting the background check and providing criminal record reports to the Board; an average of \$14.00 goes to the vendor for fingerprinting the individual. The vendor's fee ranges from \$5.00 to \$45.00 with the average fee being \$14.00. For those who are not able to submit fingerprints electronically via Live Scan, the fee for the board to process "ink on cards" is

\$51. These fees will have to be factored into the cost of the individual's volunteered services. The fees may be covered by sponsoring entities, who will also incur minor costs with respect to maintaining records for their volunteers, reporting to the board after the events and filing a registration.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not have a significant economic impact on small businesses. Instead, the impact of this rulemaking is to offer free health care to uninsured or under-insured Californians by volunteer health care practitioners coming from out of state to provide dental services. These services may benefit small businesses that do not provide dental care to their employees.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS
AND INFORMATION

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Dental Board of California at 2005 Evergreen Street, Suite 1550, Sacramento, California 95815 or by accessing the Board's website at <http://www.dbc.ca.gov/lawsregs/index.shtml>.

AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Sarah Wallace, Legislative and
Regulatory Analyst
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2187
Fax No.: (916) 263-2140
E-Mail Address:
Sarah.Wallace@dca.ca.gov

The backup contact person is:

Name: Richard DeCuir, Executive Officer
Address: 2005 Evergreen Street, Suite 1550
Sacramento, CA 95815
Telephone No.: (916) 263-2300
Fax No.: (916) 263-2140
E-Mail Address:
Richard.DeCuir@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Board's Web site at: <http://www.dbc.ca.gov/lawsregs/index.shtml>.

TITLE 20. CALIFORNIA ENERGY COMMISSION

NOTICE OF PROPOSED ACTION

PROPOSED AMENDMENTS TO APPLIANCE EFFICIENCY REGULATIONS California Code of Regulations, Title 20, Sections 1601 through 1607

CALIFORNIA ENERGY COMMISSION Docket Number 11-AAER-2

October 7, 2011

INTRODUCTION

The California Energy Commission proposes to amend its Appliance Efficiency Regulations in Sections 1601-1608 of Title 20 of the California Code of Regu-

lations (CCR). The purpose of this rulemaking is to adopt efficiency standards, certification, and marking requirements for large and small battery charger systems, and to adopt self-contained lighting control standards from Title 24 of the CCR to ensure that only self-contained lighting controls that comply with applicable standards are sold or offered for sale in California.

A battery charger system includes the charge control circuitry, batteries, and power supply. The following types of battery charger systems are excluded from the proposed regulations:

- (1) battery charger systems used to charge electrically-powered motor vehicles, other than certain sub-groups of motor vehicles;
- (2) battery charger systems that are classified as Class II or Class III devices for human use under the Federal Food, Drug, and Cosmetic Act and require U.S. Food and Drug Administration listing and approval as a medical device;
- (3) battery charger systems used to charge a battery or batteries in an illuminated exit sign, as defined in Section 1602(l);
- (4) battery charger systems with input that is three phase of line-to-line 300 volts root mean square or more and is designed for a stationary power application;
- (5) battery charger systems that are battery analyzers; and
- (6) battery charger systems that are voltage independent or voltage and frequency independent uninterruptible power supplies as defined by International Electrotechnical Commission (IEC) 62040-3 ed.2.0.

The proposed regulations include four categories of battery charger systems:

- (1) Small Battery Charger Systems — A battery charger system with a rated output power of 2 kilowatts (kW) or less, including golf cart chargers regardless of the output power.
- (2) Large Battery Charger Systems — A battery charger system with a rated output of more than 2kW.
- (3) Inductive Charger Systems — A small battery charger system that transfers power to the charger through magnetic or electric induction.
- (4) Battery Backup Chargers — A small battery charger system designed to provide power to an end use product in the event of a power outage.

The proposed small battery charger system standards, including inductive chargers, specify maximum energy and power usage levels during a 24-hour test, maintenance, and no battery mode. The battery backup regulations apply only to the maintenance mode of the covered products.

The 24-hour test measures the energy consumption of a battery charger system over the course of a day, or in the case of a very slow charger more than a day. This test captures the energy used by the system while it charges the battery.

In maintenance mode, the battery charger system is connected to the main electric supply and the battery charger may or may not be providing power to maintain a fully charged battery.

In no battery mode, the battery charger system is connected to the main electricity supply and no battery is connected to the charger.

Large battery charger system standards measure power conversion efficiency and charge return factor instead of measuring 24-hour energy. Charge return factor is the ratio of ampere-hours (Ah) returned to the battery over the Ah delivered by the battery during discharge. Power conversion efficiency is the instantaneous DC output power of the charger over the instantaneous AC input power. In addition, large battery charger systems must meet minimum power factor requirements.

The proposed regulations are based on an analysis of test data collected by Ecos Consulting¹, data obtained from the U.S. Department of Energy's (DOE) Preliminary Technical Support Document (TSD)², the final Energy Commission Staff Report for battery charger systems, and information received from various stakeholders during the pre-rulemaking process, which included multiple workshops and written comment periods.

Battery charger system test data used in this analysis includes various types of battery chemistries, capacities, power supplies, and battery charger technologies. The proposed regulations are technology-neutral across all battery charger types included in the scope. Staff analysis found that manufacturers of products with rechargeable batteries can comply with the proposed regulations without altering the way existing products use their batteries or the battery chemistry. Batteries used in products currently available on the market can be divided into two categories: batteries that require low maintenance charge after the batteries are fully charged and batteries that require periodic maintenance charge to maintain full charge. There are many technologies available to manufacturers for improving the active, maintenance, and no battery mode efficiency of battery charger systems.

The proposed regulations also include certification and marking requirements. These requirements are proposed as proof of compliance with the proposed stan-

dards and as a way for retailers, consumers, and the regulatory agencies to determine such compliance.

The small battery charger system standard shall become effective for consumer products manufactured on or after January 1, 2013, and for non-consumer products manufactured on or after January 1, 2017. The large battery charger system standard shall become effective for products manufactured on or after January 1, 2014.

Self-Contained Lighting Controls:

Self-contained lighting controls are currently regulated under Title 24 of the CCR. As such, self-contained lighting controls that do not meet the standards in Title 24 may be lawfully sold or offered for sale in California but are not allowed to be installed in California buildings. Moving self-contained lighting control standards from Title 24 to Title 20 will help to ensure that only compliant controls are sold or offered for sale in California.

The Energy Commission has prepared this Notice of Proposed Action (NOPA) and an Initial Statement of Reasons (ISOR) as part of the supporting documents needed to adopt the proposed regulations. The Energy Commission has also published the Express Terms (45-Day Language) of the proposed regulations. These documents can be obtained from the contact persons designated below or from the Energy Commission website at: http://www.energy.ca.gov/appliances/battery_chargers/documents.

PUBLIC HEARING

The Energy Commission's Efficiency Committee (Committee) will hold a public hearing on the following date and time to receive public comment on the Express Terms:

October 24, 2011

1:00 p.m.

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street

First Floor, Hearing Room A

Sacramento, California

(Wheelchair Accessible)

Audio for the October 24, 2011, Committee hearing will be broadcast over the Internet. Details regarding the Energy Commission's webcast can be found at: www.energy.ca.gov/webcast.

At this hearing, any person may present oral and written statements or arguments relevant to the proposed action. Interested persons may also submit written comments (see below). If possible, please provide written comments to be considered at the Committee hearing by October 19, 2011. The Energy Commission appreciates receiving written comments at the earliest possible date.

¹ <http://www.ecosconsulting.com/>.

² http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/bceps_preanalysis_tsd.pdf.

PROPOSED ADOPTION DATE

The Energy Commission will hold a public hearing for consideration and possible adoption of the 45-Day Language on the following date and time unless the Energy Commission decides to modify the Express Terms through issuance of 15-Day Language. The hearing will be held on:

November 30, 2011

10:00 a.m.

California Energy Commission

1516 Ninth Street

First Floor, Hearing Room A

Sacramento, California

(Wheelchair accessible)

Audio for the November 30, 2011, adoption hearing will be broadcast over the internet.

If you have a disability and require assistance to participate in these hearings, please contact Lou Quiroz at (916) 654-5146 at least 5 days in advance.

At this hearing, any person may present oral or written statements or arguments relevant to the proposed action. Interested persons may also submit written comments (see below).

PUBLIC COMMENT PERIOD/
WRITTEN COMMENTS

The public comment period for this NOPA will be from and including **October 7, 2011** through and including **November 21, 2011**. Any interested person may submit written comments on the proposed amendments. Written comments will be accepted at the public Committee hearing. Written comments will also be accepted and considered for the Energy Commission adoption hearing if they are received by **10:00 a.m. on November 30, 2011**. Written comments shall be e-mailed to [Docket@energy.state.ca.us] and mailed or delivered to the following address:

California Energy Commission

Docket No. 11-AAER-2

Docket Unit

1516 Ninth Street, Mail Station 4

Sacramento, California 95814-5504

All written comments must indicate **Docket No. 11-AAER-2**. When comments are e-mailed on behalf of an organization, the comments should be a scanned copy of the original on the organization's letterhead and include a signature of an authorized representative. Please copy hsingh@energy.state.ca.us.

AUTHORITY AND REFERENCE

The Energy Commission proposes to adopt the amendments under the authority of Public Resources Code sections 25213, 25218(e), 25402(c)(1), and 25402.5. The proposed amendments implement, interpret, and make specific Public Resources Code section 25402(c)(1).

INFORMATIVE DIGEST/POLICY STATEMENT
OVERVIEW

Public Resources Code section 25402(c)(1) mandates that the Energy Commission reduce wasteful, uneconomic, inefficient, or unnecessary energy use by prescribing, by regulation, standards for minimum levels of operating efficiency for appliances. The Energy Commission first adopted appliance efficiency regulations in 1976 and has periodically revised those, and adopted new, regulations since then. The current regulations include provisions relating to the testing of appliances to determine their efficiency, certification and reporting of data by manufacturers, standards establishing mandatory efficiency levels, and general provisions regarding the scope of the regulations and applicable definitions.

Pursuant to this NOPA, the Energy Commission is proposing to open a rulemaking proceeding to amend the Appliance Efficiency Regulations to adopt efficiency standards for small and large battery charger systems in active charge mode, maintenance charge mode, and no battery mode. Efficiency standards for large battery charger systems include an additional requirement of a minimum standard for power factor. Also, the proposed scope of this rulemaking includes adding self-contained lighting control regulations for certain devices currently regulated under Title 24 to the Appliance Efficiency Regulations in Title 20 of the CCR.

Battery Charger Systems:

To capture the range of battery chargers and battery charger-equipped products that are sold in California, the following definition for a battery charger system (BCS) is found in Section 1602(l) of the existing Appliance Efficiency Regulations.

"BCS covers all rechargeable batteries or devices incorporating a rechargeable battery and the power supplies and charger controls used with them. Battery charger systems include, but are not limited to:

- (1) electronic devices with batteries that are normally charged from AC line voltage or DC input voltage through an internal or external power supply and a dedicated battery charger;
- (2) the battery and battery charger components of devices that are designed to run on battery power during part or all of their operations;

- (3) dedicated battery systems primarily designed for electrical or emergency backup;
- (4) devices whose primary function is to charge batteries, along with the batteries they are designed to charge. These units include chargers for power tool batteries and chargers for automotive, rechargeable AA, AAA, C, D, or 9 V batteries, as well as chargers for batteries used in larger industrial motive equipment; and
- (5) the charging circuitry of battery charger systems may or may not be located within the housing of the end-use device itself. In many cases, the battery may be charged with a dedicated external charger and power supply combination that is separate from the device that runs on power from

the battery.”

The battery charger system definition in the proposed regulations covers both internal and external power supply-driven products that have rechargeable batteries.

The proposed regulations include battery-scaling factors for small and large battery charger systems that provide power and energy allowances based on the battery capacity. This scaling factor applies both to the 24-hour and standby consumption equations. The formula to calculate additional allowance is necessary, as large battery capacities require additional energy both to charge and to maintain charge.

The standards for large battery charger systems are as follows:

<u>Performance Parameter</u>		<u>Standard</u>
<u>Charge Return Factor (CRF)</u>	<u>100 percent, 80 percent Depth of discharge</u>	<u>CRF < 1.10</u>
	<u>40 percent Depth of discharge</u>	<u>CRF < 1.15</u>
<u>Power Conversion Efficiency</u>		<u>Greater than or equal to: 89 percent</u>
<u>Power Factor</u>		<u>Greater than or equal to: 0.90</u>
<u>Maintenance Mode Power ($E_b =$ battery capacity of tested battery)</u>		<u>Less than or equal to: $10 + 0.0012E_b W$</u>
<u>No Battery Mode Power</u>		<u>Less than or equal to: 10 W</u>

The standards for small battery charger systems are as follows:

<i><u>Performance Parameter</u></i>	<i><u>Standard</u></i>
<u>Maximum 24 hour charge and maintenance energy (Wh)</u> <u>(E_b = capacity of all batteries in ports and N = number of charger ports)</u>	<u>For E_b of 2.5 Wh or less:</u> <u>$16 \times N$</u>
	<u>For E_b greater than 2.5 Wh and less than or equal to 100 Wh:</u> <u>$12 \times N + 1.6E_b$</u>
	<u>For E_b greater than 100 Wh and less than or equal to 1000 Wh:</u> <u>$22 \times N + 1.5E_b$</u>
	<u>For E_b greater than 1000 Wh:</u> <u>$36.4 \times N + 1.486E_b$</u>
<u>Maintenance Mode Power and No Battery Mode Power (W)</u> <u>(E_b = capacity of all batteries in ports and N = number of charger ports)</u>	<u>The sum of maintenance mode power and no battery mode power must be less than or equal to:</u> <u>$1 \times N + 0.0021 \times E_b$ Watts</u>

The proposed regulations include an alternative compliance option for inductive charger systems, which applies to small inductive charger systems that would have difficulty meeting the standard in a cost-effective manner without significantly lowering product efficacy. The proposed alternative compliance option sets an average power limit that the battery charger system may not exceed. Inductive charger systems may either meet the small battery charger system requirements, or energy consumption in active charge mode must not exceed 1.0 watt an hour during a 24-hour test. For all inductive charger systems, neither the maintenance power nor the no battery power mode shall exceed 1.0 watt.

The Energy Commission has developed a record that forms the basis of the justification for adopting the proposed standards for battery charger systems and self-contained lighting controls. The California investor-owned utilities (IOUs) — in conjunction with the IOUs' contractor, Ecos Consulting — submitted a Codes and Standards Enhancement (CASE) study³ that provides data, information, and analysis that helped inform staff's development of the battery charger system regulations. Additional data and information has been obtained from the TSD issued by DOE and data collected through staff workshops held on October 11, 2010 and March 3, 2011, and the Efficiency Committee workshop conducted on May 19, 2011. Information was also collected through various meetings between Energy Commission staff and various stakeholders, including

the Association of Home Appliance Manufacturers (AHAM), Power Tools Institute (PTI), Philips, Wahl Clipper, Motorola Solutions, Intel, Apple, and Lester Electrical. Information was also collected through specific written requests to the various stakeholders. As a result of the technical information provided by the stakeholders, the Energy Commission has established a record that supports the conclusion that the proposed efficiency standards are feasible and attainable.

The Energy Commission has prepared a staff report, entitled Proposed Efficiency Standards for Battery Charger Systems and Self-Contained Lighting Controls, Publication No. CEC-400-2011-001-5F⁴, as the supporting technical document for stakeholder review and comment, and to meet the requirements of Public Resources Code section 25402(c)(1). Based on analysis of available data and stakeholder input, Energy Commission staff has updated the staff report and has determined — based on the best available technical data, studies, reasonable assumptions, and expert opinion — that the proposed regulations are cost-effective, feasible, and will save significant amounts of energy on a statewide basis.

The Energy Commission has determined that battery charger systems currently consume an estimated 8,000 GWh/year of electricity (one GWh is equal to one million kilowatt-hours of electric power). Of this 8,000 GWh, only 2,900 GWh of usable electricity is delivered to the battery itself. The difference of 5,100 GWh of electricity is wasted, primarily in the form of heat. This

³ http://www.energy.ca.gov/appliances/battery_chargers/documents/2010-10-11_workshop/2010-10-11_Battery_Charger_Title_20_CASE_Report_v2-2-2.pdf.

⁴ http://www.energy.ca.gov/appliances/battery_chargers/documents/.

loss represents a significant opportunity for energy savings in California.

Staff analysis of available data finds that the proposed standards will save approximately 2,147 GWh a year in energy that is currently being wasted as excess heat after the batteries are fully charged. Reducing the amount of wasted energy from battery charger systems will result in a direct energy cost savings to consumers of about \$301 million per year after all the existing non-compliant stock is replaced.⁵ The overall total energy cost savings to California consumers, from 2013 to 2028, is estimated to be \$1.6 billion after all existing stock of inefficient battery charger systems are replaced with efficient chargers meeting the proposed standards.⁶

After the existing stock of devices is replaced, it is estimated that the efficiency standards will save California consumers \$253 million per year (on average) for small battery charger systems, and \$48 million per year for large battery charger systems. The combined savings to rate payers from consumer and non-consumer battery charger systems would be \$301 million per year.

The first year energy savings generated from this regulation for small and large battery charger systems is estimated to be 335 GWh. This figure is roughly equivalent to the electricity demand that would be served by a new 300 MW natural gas power plant.⁷ Meeting this demand, should the standards not be adopted, would impose a significant cost on California ratepayers. The estimated cost of building a natural gas fired power plant is approximately \$300 million. The U.S. Energy Information Administration (EIA) estimates that it costs \$1/KW to build a natural gas power plant.⁸ The estimated total value of these regulations in direct energy cost savings stemming from the proposed standards, and from indirect savings in avoided construction costs of a new natural gas power plant, is approximately \$1.9 billion.

Technical Feasibility:

The Energy Commission has determined based on the record that there are multiple technologies used in

battery chargers currently being built and sold on the market, that cheaply and effectively reduce energy consumption. Some of these technologies are discussed below and in the staff report. The least efficient chargers in the market do not detect when a battery is fully charged. This can be detrimental to the battery life, product safety, and adds unnecessary costs to consumers' electricity bills. The use of efficient power supplies that automatically turn off charge to fully-charged batteries can be achieved by implementing hysteresis capability⁹ or other new technologies, and such technologies have not imposed, and will not impose, a large cost on either the manufacturer or the consumer. The use of these technologies will greatly decrease the energy consumption of the most inefficient battery charger systems on the market. The staff report includes the following findings:

- (1) A significant amount of energy in battery charger systems is lost in using inefficient power supplies to convert AC power to DC power. This loss can be minimized by the use of efficient power supplies¹⁰ and the proposed standards for most battery chargers can be met by the use of energy efficient power supplies.
- (2) Many battery-equipped products have a battery charger that continues to provide charge to the battery after it is fully charged. An efficient battery charger shuts off the continuous flow of electricity to fully charged batteries and provides a low periodic maintenance charge to the batteries.
- (3) The continuous current heats the fully charged battery resulting in wasted energy and potentially damaging the battery itself.

Inefficient battery charger systems can be modified to improve the charge efficiency of the battery chargers by including charge sensors to measure battery condition and can switch off the charge to fully charged batteries. This capability can be implemented with inexpensive, "off the shelf" technology that will not require major redesign of products. This technology can be applied to batteries that have a low maintenance charge loss.

Some battery chemistries lose charge over time after they are fully charged. This phenomenon is called self discharge. Battery charger system designs can be modified to provide a low periodic maintenance charge to

⁵ <http://www.energy.ca.gov/2011publications/CEC-400-2011-001/CEC-400-2011-001-SF.PDF>.

⁶ Total Energy savings are calculated using the formula: Present Value Reduced Total Cost over the Design Life of the Appliance (\$) X Estimated Annual Sales (Thousand) X Estimated Appliance Design Life (Years).

⁷ <http://iopscience.iop.org/1748-9326/5/1/014017>.

For simplicity, staff has used the recently defined Rosenfeld unit to convert from GWh/yr savings to a power plant equivalent. Staff has used multiple the GWh/yr savings by one-sixth to get an MW power plant equivalent. For example: 2000 GWh/yr savings would be equivalent to 333 MW, or 0.67 Rosenfelds. Staff has rounded this number to 300 MW.

⁸ <http://www.eia.doe.gov/oiaf/aeo/assumption/pdf/electricity.pdf>.

⁹ Hysteresis typically refers to turn-on and turn-off points in electrical, electronic and mechanical systems. For example, if a thermostat set for 70 degrees turns on when the temperature reaches 68 and turns off at 72, the hysteresis is the range from 68 to 72.

¹⁰ At present, the Energy Commission and DOE regulate external power supplies (EPS). DOE- and Energy Commission-compliant power supplies are marked as "IV" and ENERGY STAR® has developed a more stringent specification using the mark "V". The EPS regulations exclude battery charger power supplies (BCPS).

keep batteries subject to self-discharge at sufficient charge levels. To accomplish periodic maintenance capability a battery charger must incorporate a charge controller for the transition from a charge mode to a low power maintenance mode. Switching chargers off and on for periodic maintenance can be accomplished by implementing hysteresis. A charge controller can be designed using a comparator to read battery charge condition and an electronic switch to turn charge off or on.¹¹ Electronic switching can also be accomplished by using a timer, a temperature sensor, a voltage sensor, a transistor, or any number of other open or closed control systems. The incremental cost of incorporating a charge control mechanism in a battery charger will be offset by the energy savings generated over the life of the product.¹² The technology and designs for efficient charging and maintenance mode are readily available and can be achieved through non-proprietary approaches.

Battery charger systems can incorporate existing switch technology to turn power off or on to prevent wasting energy and potential battery damage. In fact, many battery charger systems on the market today already meet the proposed standards at competitive price points. Strategies described in the staff report to improve battery charger efficiency include linear design, switch mode, ferroresonant, and silicon control rectifier.

Linear designs that use linear transformers to convert AC power to DC and that use full wave rectifiers instead of half wave rectifiers can drastically improve efficiency.¹³ Replacing linear power supplies with switch mode power supplies and the charge regulating elements or some form of charger termination cost-effectively improves the 24-hour efficiency of small chargers by nearly 45 percent, while simultaneously reducing battery maintenance and no battery mode power.

Switch mode chargers can be made more efficient through various design methods. Hysteresis charging can reduce energy usage in maintenance mode by using short spurts of high current to maintain the battery's voltage. Resonant switching configuration in charge mode can reduce switching losses in large battery charger systems with switch-mode power supplies. This design provides power transistors that switch on and off at the precise time that the voltage or current passes

through zero, reducing heating loss in the transistors.¹⁴ Synchronous rectification in charge mode can reduce voltage drops and thus power losses in the power supply by using a transistor to conduct during certain cycles of operation as opposed to a diode. Periodic maintenance with a combination of battery voltage sensing circuitry and the switching controlled energy delivery allows switch mode systems to provide periodic maintenance to batteries, as opposed to constant unchecked battery maintenance.

Ferroresonant chargers can be made more efficient by incorporating hybrid technology that can optimize the magnetic flux coupling in the transformer to improve power conversion efficiency. This technology significantly improves the efficiency of large battery chargers. Silicon-controlled rectifier (SCR) chargers can be made more efficient by reducing switching losses via incorporating higher switching frequencies. High frequency chargers have much lower switching losses and thus much better power conversion

Inductive Charger Systems:

Inductive charger systems use a wireless power supply and are a unique class of product. In some products, such as toothbrushes, wireless power delivery provides a great deal of utility, such as avoiding contact corrosion for products that are exposed to water and chemicals. However, this method of power delivery is inherently less efficient than direct wiring. The proposed regulations apply to charge efficiency, maintenance mode, and no battery modes. To ensure the feasibility of implementing inductive charging in this specific case, Energy Commission staff has proposed alternative compliance options for inductive charger systems.

Battery Backup and Uninterruptible Power Supplies:

These systems operate primarily in maintenance mode. Battery backup systems only charge batteries in the case of a power brownout or blackout. This means that the battery charger system is almost exclusively in a low-power maintenance mode. These products can comply with the proposed regulations by improving fixed system losses and power conversion efficiency.

Cost Effectiveness of Proposed Battery Charger Systems Regulations:

Based on the record, staff has determined that the proposed energy efficiency standards for battery charger systems are technically feasible, attainable, and cost effective, as the proposed standards will not result in any added cost to the consumer over the design life of the product. While the incremental cost of some products may increase depending on what approach manufacturers take in order to achieve compliance with the standards, the energy savings over the life of the products

¹¹ A comparator is a device that can compare two voltages or currents and switch its output to indicate which is larger.

¹² http://www.energy.ca.gov/appliances/battery_chargers/documents/2011-03-03_workshop/presentations/Proposed_Standards_for_Battery_Chargers-Suzanne_Foster_Porter_and_Philip_Walters.pdf Page 29.

¹³ A rectifier is an electrical device that converts alternating current (AC), which periodically reverses direction, to direct current (DC), which is in only one direction, a process known as rectification.

¹⁴ http://www.efficientproducts.org/reports/bchargers/1270_BatteryChargerTechnicalPrimer_FINAL_29Sep2006.pdf.

will exceed these costs. Some examples of the incremental cost analysis included in CASE report include the following:¹⁵

- Improving the efficiency of a low power product like a cordless phone or power tool can cost less than \$1.00 when implemented as part of a normal design process, because changes can be as simple as exchanging linear power supplies with switch mode supplies. For a total incremental cost of less than \$2.00, switch controlled current regulating components, usually AC-to-DC converters, can be incorporated to significantly reduce maintenance and no-battery losses.
- A battery charger system can be completely redesigned and brought to market at an incremental manufacturing cost near zero. By replacing some components with more efficient ones, incremental component costs near \$0.40 are common. One simple solution is switching off or on a charge current to a battery, and can be accomplished by the use of transistor designed to operate as a comparator. Switching charger current off or on can also be done by use of timer or IC chip. These parts are readily available at a cost of less than \$1.00.

The efficiency standards can be met by incorporating the above-mentioned changes or other available technologies for battery charger systems, which in turn allow manufacturing changes that more than offset any increased cost and lead to low net cost increases depending on the specific routes the manufacturer chooses to pursue. The added total cost is obtained by comparing the cost and performance of a typical model that the consumer would be expected to purchase with the proposed standards in effect to the cost and performance of a typical model that the consumer would be expected to purchase without the proposed standards in effect. The analysis in the staff report shows that the proposed efficiency standards will save significant energy statewide.

Self-Contained Lighting Controls:

The Energy Commission is proposing to add to the Appliance Efficiency Regulations in Title 20 of the CCR certain self-contained lighting controls currently regulated under Title 24. As Title 24 is an installation-based regulation, and Title 20 is a sales-based regulation, the addition of self-contained lighting control regulations into Title 20 will better ensure that only those devices that comply with the standards are being sold or offered for sale in California. The cost effectiveness, feasibility, and energy saving required findings for self-

contained lighting controls were met under Title 24 rulemaking processes conducted from 1978 through 2007.¹⁶ The requirements of the Title 24 rulemaking process are sufficiently similar to establish cost effectiveness, feasibility, and energy savings for the currently proposed self-contained lighting control standards.

LIST OF DOCUMENTS INCORPORATED BY REFERENCE

IEC 62040-3 ed.2.0 Uninterruptible Power Systems

Copies available from: International Electrotechnical Commission
3, rue de Varembe
P.O. Box 131
CH-1211 Geneva 20
Switzerland
<http://www.iec.ch>
Phone: +41 22 919 02 11
FAX: +41 22 919 03 00

FEDERAL TEST METHODS

CFR, Title 10, Section 430.23 (2011)

Copies available from: Superintendent of Documents
U.S. Government Printing
Office
Washington, DC 20402
www.access.gpo.gov/nara/cfr
www.gpoaccess.gov/cfr/

FEDERAL LAW

The proposed regulations for battery charger systems require the measurement of active, maintenance, and no battery modes. The Energy Commission adopted a test method for battery charger systems which is the Energy Efficiency Battery Charger System Test Procedure Version 2.2 dated November 12, 2008 and published by ECOS and EPRI Solutions.¹⁷

DOE published a Final Rule for test procedures for consumer battery chargers on June 1, 2011. The DOE test procedure is essentially the same test procedure adopted by the Energy Commission in 2008. The DOE's test procedure pre-empts the current Energy

¹⁵ http://www.energy.ca.gov/appliances/battery_chargers/documents/2010-10-11_workshop/2010-10-11_Battery_Charger_Title_20_CASE_Report_v2-2-2.pdf.

¹⁶ www.energy.ca.gov/2008publications/CEC-400-2008-001/CEC-400-2008-001-CMF.PDF and http://www.energy.ca.gov/title24/2008standards/rulemaking/documents/docs_relied_upon.html.

¹⁷ http://www1.eere.energy.gov/buildings/appliance_standards/residential/tp_battery_chargers_active.html.

Commission battery charger system test procedure for devices considered to be “consumer products” under federal law. However, this does not change the energy measurement required in the proposed battery charger system regulations. The DOE test procedure is available in 10 CFR Part 430, Energy Conservation Program for Consumer Products, Appendix Y to Subpart B of Uniform Test Method for Measuring the Energy Consumption of Battery Chargers.¹⁸ The Energy Commission is proposing to use the new federal test procedure for both consumer and non-consumer small battery charger systems and to use the ECOS test procedure for large battery charger systems.

OTHER STATUTORY REQUIREMENTS

Public Resources Code section 25402(c)(1) mandates that the Energy Commission:

- (1) adopt minimum levels of operating efficiency (efficiency standards) for appliances that use a significant amount of energy on a statewide basis;
- (2) ensure that such standards be based on feasible and attainable efficiencies or feasible improved efficiencies; and
- (3) ensure that such standards be cost-effective based on a reasonable use pattern, i.e., not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance.

As discussed in the informative digest, the Energy Commission believes that the standards in the proposed regulations will result in significant energy savings, are feasible and attainable, and are cost-effective.

LOCAL MANDATE

The proposed amendments will not impose a mandate on state or local agencies or districts.

ECONOMIC AND FISCAL IMPACTS

The Energy Commission has made the following initial determinations.

FISCAL IMPACT

Costs Requiring Reimbursement. The proposed amendments will not impose on local agencies or

school districts any costs for which Government Code sections 17500–17630 require reimbursement.

Other Non-Discretionary Costs or Savings for Local Agencies. Local agencies that purchase battery charger systems or self-contained lighting controls subject to efficiency standards may have to pay increased purchase costs for those appliances. However, those costs will be recovered by reductions in electricity bills. These costs are not specific to local agencies but instead are related to the incremental cost of improving efficiency for a broad range of battery charger systems that local agencies and other consumers alike will buy.

Costs or Savings for State Agencies. State agencies that purchase battery charger systems, battery charger-equipped devices, or self-contained lighting controls subject to efficiency standards may pay increased purchase costs for those appliances. However, those costs will be recovered by reductions in electricity bills. These costs are not specific to state agencies but instead are related to the incremental cost of improving efficiency for a broad range of battery charger systems that local agencies and other consumers alike will buy.

Cost or Savings in Federal Funding to the State. The proposed amendments will not result in any costs or savings in federal funding to the state.

EFFECT ON HOUSING COSTS

There will be no significant effect on housing costs. The costs of owning and operating a home will decrease as a result of lower electricity costs by using the efficient battery charger system and self-contained lighting controls. The Energy Commission has determined that the proposed efficiency standards will not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS, INCLUDING THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE WITH BUSINESSES IN OTHER STATES

The Energy Commission has determined that there will be no significant statewide adverse economic, fiscal, or environmental impact directly affecting businesses, including small businesses, as a result of the proposed amendments, including the ability of California businesses to compete with businesses in other states.

Based on the record before it the Energy Commission has determined that there will be no net increase in the life cycle cost of battery charger systems, battery char-

¹⁸ <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=003167d81e86c893a2b9650c38c70883&rgn=div9&view=text&node=10:3.0.1.4.18.2.9.6.34&idno=10>.

ger equipped devices, or self-contained lighting controls due to the proposed efficiency standards.

Many products that already meet the proposed standards are currently being sold. There is no evidence in the record to show that an efficient battery charger system is more costly over the lifetime of the product than an inefficient battery charger system. Furthermore, for most battery charger systems the proposed regulations can be met by implementing common, relatively inexpensive design changes. These design changes may require manufacturers to turn the charger off when the battery is fully charged and by implementing hysteresis during charging. The proposed battery charger system standards will not result in any added cost and/or added total cost to the consumer over the design life of the efficient battery chargers. Thus, the efficiency standards can be met by incorporating existing efficiency technologies in battery charger systems.

In addition, the Energy Commission staff has determined that the proposed regulations would save consumers an estimated 2,147 GWh per year after the existing stock is replaced. The total value of statewide energy savings over the life of the regulations, from 2013 to 2028, for California consumers is projected to be \$1.6 billion. Staff believes this \$1.6 billion in consumer energy cost savings could help stimulate California business since the \$1.6 billion represents an increase in disposable income that consumer would otherwise be spending on higher energy bills due to the use of inefficient battery charger systems.

The required findings of cost effectiveness, feasibility, and energy savings required for self-contained lighting controls were met under Title 24 rulemaking processes conducted from 1978 through 2007.¹⁹ The requirements of the Title 24 rulemaking process are sufficiently similar to establish cost effectiveness, feasibility, and energy savings for the currently proposed self-contained lighting control standards.

In conclusion, Energy Commission staff has found that the proposed battery charger systems and self-contained lighting control regulations meet the requirements of Public Resources Code section 25402(c)(1), and that the proposed standards will not result in any added total cost to the consumer over the design life of the battery charger systems or self-contained lighting control. Therefore, there will be no adverse economic impacts to businesses, nor any adverse impacts on California businesses to compete with businesses in other states.

Nevertheless, the Energy Commission invites interested persons to submit alternative proposals to lessen

any adverse economic impact on business that might exist, which may include the following considerations:

- (1) Establishing differing compliance or reporting requirements, or timetables that take into account the resources available to businesses.
- (2) Consolidation or simplification of compliance and reporting requirements for businesses.
- (3) Use of performance standards rather than prescriptive standards.
- (4) Exemption or partial exemption from the regulatory requirements for businesses.

IMPACTS ON THE CREATION OR ELIMINATION OF JOBS WITHIN THE STATE, THE CREATION OF NEW BUSINESSES OR THE ELIMINATION OF EXISTING BUSINESSES, OR THE EXPANSION OF BUSINESSES IN CALIFORNIA

The proposed amendments will have no impact on elimination of jobs, or the elimination of existing businesses, in California. The proposed regulations may result in the creation of jobs, businesses, or the expansion of existing businesses in the State.

Based on the record before it, the Energy Commission has determined that there may be an increase in the purchase price of battery charger systems due to the proposed efficiency standards. However, the proposed regulations for most battery chargers can be met by implementing simple design changes. While there will be incremental cost impacts to comply with the regulations, staff has found that these incremental costs are more than offset by savings in energy costs due to the improvements in energy efficiency. Therefore, there will not be any impact on the elimination of jobs with the State.

In addition, Energy Commission staff has determined that the proposed regulations would save consumers 2,147 GWh annually from 2013 to 2028. These savings will help protect the California economy with a stabilizing effect on energy prices, which is key to the economy and jobs. The total value of this energy savings for the California consumers over the lifetime of the battery charger system regulations will be \$1.6 billion. This \$1.6 billion in consumer energy cost savings will stimulate consumer spending or investment which will in turn result in the creation of jobs.

The required findings of cost effectiveness, feasibility, and energy savings required for self-contained lighting controls were met under Title 24 rulemaking processes conducted from 1978 through 2007.²⁰ The requirements of the Title 24 rulemaking process are sufficiently similar to establish cost effectiveness, feasibility,

¹⁹ http://www.energy.ca.gov/title24/2008standards/rulemaking/documents/docs_relied_upon.html.

²⁰ http://www.energy.ca.gov/title24/2008standards/rulemaking/documents/docs_relied_upon.html.

ity, and energy savings for the currently proposed self-contained lighting control standards.

COST IMPACTS ON REPRESENTATIVE PERSON OR BUSINESS

There will be no significant cost impacts on businesses and individuals that purchase battery charger systems or self-contained lighting controls subject to the proposed regulations. The costs of owning and operating a battery charger system, product equipped with a battery charger, or self-contained lighting control will decrease as a result of lower electricity costs by using the efficient battery charger system. The Energy Commission staff has determined that the proposed regulations will not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency over the design life of the appliance.

BUSINESS REPORTS

The proposed regulations would require mandatory data submittal of energy efficiency data for manufacturers (i.e., Business Reports) to the Energy Commission about the battery charger systems that they manufacture. (In California, there are few manufacturers of the appliances that would be added to the regulations by the proposed amendments.) The Energy Commission estimates that the annual reporting cost to be \$374 per manufacturer.

The Energy Commission estimates that the annual reporting costs for self-contained lighting controls will be \$0 as they are already required under Title 24 to be certified to the Energy Commission. This certification will move to Title 20 resulting in neither additional nor fewer reporting requirements.

It is necessary for the health, safety, and welfare of the people of California that the proposed regulations apply to businesses, for two basic reasons. First, the Energy Commission is statutorily required to adopt efficiency standards and the submittal of data is necessary to determine compliance with the standards. Second, the data required to be submitted will be used to increase consumer awareness, to complement utility efficiency programs, and for research, all of which will foster additional efficiency, in turn leading to economic, energy reliability, and environmental benefits.

SMALL BUSINESS

There will be no significant cost impacts on small businesses that purchase battery charger systems, bat-

tery charger-equipped products, or self-contained lighting controls subject to the proposed regulations. The costs of owning and operating a battery charger system, battery charger-equipped product, or self-contained lighting control will decrease as a result of lower electricity costs by using the efficient battery chargers. The Energy Commission has determined that the proposed regulations will not result in added total costs to the consumer, considering both the increased costs of the efficiency improvement and the reduced utility bill costs resulting from the improved efficiency, over the design life of the appliance.

ALTERNATIVES

Before it adopts the proposed regulations, the Energy Commission must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to its attention, would be more effective in carrying out the purpose for which the amendments are proposed or would be as effective as and less burdensome to affected private persons than the proposed amendments. To date, the Energy Commission has found no alternatives to the proposed action that would be more effective, or as effective and less burdensome.

The Energy Commission considered alternatives for self-contained lighting controls. However the purpose of the self-contained lighting control regulations is to expand the authority of the current installation-based building code to a sales-based appliance code and not to change the product requirements. It was determined that adopting unaltered self-contained lighting control requirements would result in the minimum impact to businesses and consumers while maintaining maximum effectiveness.

The staff of the Energy Commission investigated two alternatives to the proposed battery charger system regulations:

The first alternative was to choose more stringent energy efficiency limits for the appliances in the scope of this regulation. It was determined that this would increase the effectiveness of the regulations in terms of resulting energy savings but would be more burdensome to business and less cost-effective to consumers. Therefore, this alternative was rejected.

The second alternative was to choose a less stringent standard or to not adopt any standards at all. This alternative was less effective in terms of resulting energy savings and therefore was rejected. Any standard less than what is proposed would not achieve all feasible and cost-effective energy efficiency savings as mandated under the Public Resources Code.

Staff therefore has determined, based on the record, that:

- (1) the energy savings achieved from adopting the proposed efficiency standards for battery charger systems results in a significant amount of energy savings on a statewide basis;
- (2) the proposed efficiency standards are based on feasible and attainable efficiencies of battery charger systems currently being made and sold, and that these efficient battery charger systems will result in a significant reduction in California's energy consumption growth rates;
- (3) the proposed efficiency standards will not result in any added total cost for the consumers over the lifecycle of the battery charger system and that any incremental cost difference between the efficient battery charger system and the energy wasting battery charger system currently being sold will be recovered over the life of the product; and
- (4) in calculating the cost-effectiveness of the efficiency standards, staff considered the value of the energy saved, impact on product efficacy for the consumer, and the life cycle cost to the consumer of complying with the standard.

DESIGNATED CONTACT PERSONS

Please contact the following person, preferably by e-mail, for general information about the proceeding or to obtain any document relevant to the proceeding, including this document, the Express Terms, the Initial Statement of Reasons, the Form 399, and any other document in the rulemaking file:

Angelica Ramos
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4147
Fax: 916-654-4304
E-mail: [aromo@energy.state.ca.us]

Please contact the following person, preferably by e-mail, for substantive questions:

Harinder Singh
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-4091
Fax: 916-654-4304
E-mail: [hsingh@energy.state.ca.us]

The backup contact person for substantive questions is:

Kenneth Rider
California Energy Commission
1516 Ninth Street, Mail Station 25
Sacramento, California 95814-5512
Telephone: 916-654-5006
Fax: 916-654-4304
E-mail: [Krider@energy.state.ca.us]

Mr. Singh and Mr. Rider also can assist in obtaining documents and in answering general questions.

PUBLIC ADVISER

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in this rulemaking, please contact:

Jennifer Jennings, Public Adviser
California Energy Commission
1516 Ninth Street, Mail Station 12
Sacramento, California 95814-5512
Telephone: 916-654-4489
Fax: 916-654-4493
E-mail: [pao@energy.state.ca.us]

NEWS MEDIA INQUIRIES

News media inquiries should be directed to Media and Public Communications Office at (916) 654-4989, or by e-mail at mediaoffice@energy.state.ca.us.

AVAILABILITY OF THE TEXT OF THE PROPOSED AMENDMENTS (EXPRESS TERMS), THE INITIAL STATEMENT OF REASONS (ISOR), AND THE INFORMATION UPON WHICH THE PROPOSAL IS BASED (RULEMAKING FILE)

The first action to take to obtain documents in this rulemaking proceeding is to visit the Energy Commission's appliance efficiency website at http://www.energy.ca.gov/appliances/battery_chargers/documents.

The website will have all of the documents prepared by the Energy Commission, including the Express Terms of the proposed amendments (written in plain English and set forth in a format that indicates both the existing text and the proposed text), the Initial Statement of Reasons, and all documents relied upon by the Energy Commission, as well as most of the other documents in the rulemaking file.

The Express Terms and the Initial Statement of Reasons are also available at no cost from the contact person, Angelica Ramos (see above).

The Energy Commission's Docket Office has available all of the documents in the rulemaking file; for copies, please contact:

Docket Office
California Energy Commission
1516 Ninth Street, MS 4
Sacramento, California 95814-5504
916-654-5076

**AVAILABILITY OF MODIFIED AMENDMENTS
(15-DAY LANGUAGE)**

At the November 30, 2011 adoption hearing, the Energy Commission may adopt the proposed amendments substantially as described in this NOPA. If modifications are made, and they are sufficiently related to the originally proposed amendments, the full modified text with changes clearly indicated will be made available to the public at least 15 days before the Energy Commission adopts the amendments. A notice of the availability of any such text will be placed on the Energy Commission's website and will be mailed to all persons to whom this notice is being mailed, who submitted written or oral comments at any hearing, who submitted written comments during the public comment period, or who requested to receive such notices. In addition, copies may be requested from the contact person named above and from the Docket Office. The Energy Commission will accept written comments on any such modified text for at least 15 days after the text is made available to the public. Adoption of the 15-Day language will be considered at a public hearing scheduled in the notice of availability.

FINAL STATEMENT OF REASONS

The Energy Commission will prepare a Final Statement of Reasons on the amendments, responding to all relevant comments made during the proceeding. The Final Statement of Reasons will be available from the contact person named above and from the Docket Office, and will be posted on the Energy Commission's website.

INTERNET ACCESS

Documents prepared by the Energy Commission for this rulemaking, including this NOPA, the Express Terms, the ISOR, and most other documents in the rulemaking file, will be posted on the Energy Commission's website, http://www.energy.ca.gov/appliances/battery_chargers/documents.

Note: The California Energy Commission's formal name is the State Energy Resources Conservation and Development Commission.

**TITLE 23. DEPARTMENT OF WATER
RESOURCES**

**DIVISION 2, CHAPTER 4.5, SECTIONS 570-576
OF THE CALIFORNIA CODE OF
REGULATIONS REGARDING FINANCIAL
ASSISTANCE FOR FLOOD MANAGEMENT
PROJECTS AND SMALL FLOOD
MANAGEMENT PROJECTS**

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Department of Water Resources (DWR) is proposing to take the action described in the Informative Digest.

Public hearings regarding this proposal will be held on November 30, 2011, at 5796 Corporate Avenue, Cypress, CA, large Conference Room, top floor, from 9:30 a.m.-11:30 a.m., and on December 1, 2011, at 1416 Ninth Street, Sacramento, CA, Resources Building Auditorium, from 9 a.m.-11 a.m. Any interested person or his or her authorized representative may present statements or arguments orally or in writing relevant to the action.

Notice is also given that written comments relevant to the proposed regulatory action may be hand-delivered or mailed to:

**STATE OF CALIFORNIA
DEPARTMENT OF WATER RESOURCES
DIVISION OF FLOOD MANAGEMENT
3310 EL CAMINO AVE
SACRAMENTO, CA 95814
ATTENTION: DAVID WRIGHT**

Comments may also be submitted by facsimile (fax) at (916) 574-1478 or by email to dwright@water.ca.gov. In order to be considered before the DWR adopts the proposed regulations, written comments that present statements, arguments, or contentions relative to the proposed action must be received by December 2, 2011.

Following the public comment period, which closes December 2, 2011, DWR may adopt the proposed regulations if they remain substantially unchanged as described in the informative digest. DWR may make changes in the proposed regulations before adopting them. The text of any modified regulations will be made available to the public with the changes clearly marked at least 15 days before the regulations are adopted. If a modified text is required, a request for copy should be made to the agency official designated in this notice. DWR will accept comments on the modified regulations for 15 days after the date on which the revised text is made available.

AUTHORITY AND REFERENCE

DWR is proposing to adopt regulations pursuant to the authority given under Water Code Section 12601. The Department is implementing, interpreting, and making specific Water Code Sections 12582.7, 12585.7, and 12585.9. The proposed updates to the regulations will supplement criteria and processes for determining the percentage of State financial assistance in flood management projects, as well as update terms and definitions pertaining to cost-sharing. These regulations will update sections 570, 571, 574, and 575, to Title 23 of the California Code of Regulations.

INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW

In September 2010, the Legislature passed and the Governor signed Assembly Bill 1788, a bill that requires DWR to update existing regulations for determining the level of State financial assistance in flood management projects in order to allow for an increase cost-share with local agencies in economically disadvantaged areas. The updates enhance the existing regulations by providing more clarity to the existing criteria and processes to determine a flood control project's level of contribution to all or any of five objectives. The updates will also specifically enhance the disadvantaged area objective, which is one of the five objectives listed in Water Code Section 12585.7. Projects which are deemed by DWR to provide a significant contribution to any of the stated objectives may receive an increase in State share of the costs. Specifically, those communities that fit into the category of a disadvantaged area may receive an even larger State share of costs, dependent on the level to which they meet the disadvantaged area criteria. The updated text will provide further detail on the criteria for meeting the disadvantaged area objective.

Part 6 of the Water Code gives DWR general authority to provide financial assistance to flood control projects. Water Code Section 12582.7 makes federal participation a prerequisite to State financial assistance, and Water Code Section 12585.7 establishes State financial assistance at a base amount of 50 percent with potential increases up to 70 percent of nonfederal capital costs related to flood control and other purposes. Increases above the 50 percent base State cost-share are measured by a project's ability to significantly contribute to one or more of five objectives: protection, creation, enhancement, or opportunity for enhancement of endangered species, riparian, aquatic, terrestrial, or other important habitats; development or enhancement of designated recreational opportunities, provided the project is sufficiently accessible to the public; increased flood

protection for areas with median household income below 120 percent of poverty level (disadvantaged area); or increased flood protection for State transportation of water supply facilities. Water Code Section 12585.7 was amended on September 30, 2010 to modify existing law to allow for an increased State cost-share pertaining to the disadvantaged area objective. The updated regulations will further clarify and make specific the criteria for determining a project's level of contribution to the objectives. The updates will include additions and amendments to the terms and definitions section as well as further description of project eligibility, method to determine a project's contribution to objectives, and the method to determine the recommended percentage increase in State share.

OTHER MATTERS PRESCRIBED BY STATUTE SPECIFICALLY FOR THIS AGENCY: FEDERAL CONFORMITY

The proposed regulation changes deal exclusively with relationships between State government and local government. There is no known existing or comparable federal regulation or statute. DWR finds that these regulations have no conflict with federal regulations.

LOCAL MANDATE

This proposal does not impose a mandate on local agencies or school districts. The cost-sharing program described allows for voluntary participation only.

FISCAL IMPACT ESTIMATES AND COSTS TO PUBLIC AGENCIES, BUSINESSES, AND PERSONS AFFECTED

The regulations do not have an effect on the actual cost of any project. The proposed updates affect only the allocation of the costs between local and State government. Therefore, they do not impact any private contractor's funding or availability to work on such projects and there are no imposed direct costs or benefits to businesses or employees. The DWR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The DWR has determined that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. These updates will not create or eliminate jobs, create or eliminate business, or affect the expansion of businesses. No reporting requirements on businesses or individuals or prescriptive standards are being imposed. The updates will impact costs to par-

ticipating local governments. Local agencies can choose to participate in the program. Those that do will receive cost savings depending on the projects contribution to objectives stated in the statute. The proposed updates will not result in either a savings or costs to local agencies that choose not to participate in the programs. There will be an impact on State costs. The State share of costs and the appropriation of funds for any project that receives State financial assistance are authorized by legislature. The total fiscal impact of the cost-sharing programs is unknown. It is dependent on the number of local agencies that choose to participate, the State's economy, and the decisions made by the Legislature on appropriating funds.

ALTERNATIVES

The DWR must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. DWR invites interested persons to present statements or arguments with respect to alternatives to the proposed action at the previously mentioned hearings or during written comment periods.

DISCLOSURES REGARDING THE PROPOSED ACTION

The DWR has made the following initial determinations:

Costs or savings to State Agencies: None.

Costs or savings in Federal Funding to the State: None.

Nondiscretionary costs or savings to Local Agencies: None.

Cost to any Local Agency or School District for Which Government Code Sections 17500–17630 Require Reimbursement: None.

Significant effect on housing costs: None.

Small Business Determination

The purpose of the proposed regulation updates is to modify criteria for determining the level of State financial assistance in flood management projects for economically disadvantaged areas. The regulations do not have an effect on the actual cost of any project. The proposed updates affect only the allocation of the costs between local and State government. Therefore, they do not impact any private contractor's funding or availability to work on such projects and there are no imposed direct costs or benefits to businesses or em-

ployees. The updates do not impose any cost impacts that an individual or small business would necessarily incur in a reasonable compliance with the proposed action. These updates will not create or eliminate jobs, create or eliminate business, or affect the expansion of businesses. The updates do not impose reporting requirements on businesses or individuals, or impose prescriptive standards. Therefore DWR has determined that the proposed regulations do not affect small business.

STATEMENT OF REASONS

DWR has prepared an initial statement of reasons for the proposed regulations and has available to the public all information upon which the proposal is based.

If the text of the proposed regulations is substantially changed following the public hearing and comment period, the full updated text will be available to the public for a 15 day comment period before the regulations are adopted. A final statement of reasons will be prepared when all comments have been received and considered, prior to the closing of the rulemaking record. You may obtain a copy of any or all information contained in the rulemaking record by making a written request to the Agency Representative. The rulemaking file is available for public inspection at all times, and can be accessed by contacting the Agency Representative.

WEB ACCESS

Materials regarding this proposal can be found at www.water.ca.gov/floodmgmt/fpo/sgb/llap/.

GENERAL PUBLIC INTEREST

TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or CEIR has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that its

Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.
DBA ASI Telesystems, Inc.
21150 Califa Street
Woodland Hills, CA 91367

Bay Recycling
800 77th Avenue
Oakland, CA 94621

C & C Disposal Service
P.O. Box 234
Rocklin, CA 95677

Choi Engineering Corp.
286 Greenhouse
Marketplace, Suite 329
San Leandro, CA 94579

Fries Landscaping
25421 Clough
Escalon, CA 95320

Marinda Moving, Inc.
8010 Betty Lou Drive
Sacramento, CA 95828

MI-LOR Corporation
P.O. Box 60
Leominster, MA 01453

Peoples Ridesharing
323 Fremont Street
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital
446 26th Street
San Diego, CA

Southern CA Chemicals
8851 Dice Road
Santa Fe Springs, CA 90670

Tanemura and Antle Co.
1400 Schilling Place
Salinas, CA 93912

Turtle Building Maintenance Co.
8132 Darien Circle
Sacramento, CA 95828

Univ Research Foundation
8422 La Jolla Shore Dr.
La Jolla, CA 92037

Vandergoot Equipment Co.
P.O. Box 925
Middletown, CA 95461

**OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

**NOTICE OF AUGMENTATION OF RECORD
AND 2ND MODIFICATION OF TEXT OF
PROPOSED REGULATION**

**TITLE 22, CALIFORNIA CODE
OF REGULATIONS,
SECTIONS 69401 THROUGH 69407**

**GREEN CHEMISTRY HAZARD TRAITS
FOR CALIFORNIA'S TOXICS
INFORMATION CLEARINGHOUSE**

OCTOBER 7, 2011

The Office of Environmental Health Hazard Assessment (OEHHA) is providing a notice of changes made to the proposed regulation: Title 22, California Code of Regulations, sections 69401 through 69407. A Notice of Proposed Rulemaking was issued for this proposed regulation on December 17, 2010 and published in the California Regulatory Notice Register (Register 2010, No. 51–Z). The proposed regulation is related to the specification of hazard traits by OEHHA as required by Senate Bill 509 (Simitian, Chapter 560, Statutes of 2008). A public hearing on this regulatory proposal was held on January 31, 2011. Written comments from the public were received during a 45–day comment period which closed on February 15, 2011. Pursuant to Health and Safety Code section 57004, the University of California coordinated an external scientific peer review of the proposed regulation. OEHHA received the peer review in June 2011. Subsequently, a Notice of Modification of Text was published on July 29, 2011 in the California Regulatory Notice Register (Register 2011, No. 30–Z) and on OEHHA's website with a new 45–day comment period ending September 12, 2011. The comments received are posted on the OEHHA website at <http://www.oehha.ca.gov/multimedia/green/gc092211.html> and hard copies may be obtained from Monet Vela at the OEHHA Legal Office at (916) 323–2517.

OEHHA has reviewed the comments it received in this second comment period and is now proposing amendments to the modified proposed regulation and is augmenting the administrative record. A copy of the text of the amended proposed regulation is attached. The additions and deletions from the first modifications are shown in single strike–out and underline. The new modifications are shown in double–underline and double–strike–out. The page numbers have changed to reflect the document shifts caused by the text modifica-

tions. The changes to the proposed text, which were made in response to comments received, are as follows:

- Amended the title of Chapter 54 by inserting after Green Chemistry Hazard Traits the words “for California’s Toxics Information Clearinghouse”
- Inserted the word “other” in front of “Toxicological Hazard Traits” in the title of Section 69403.17 to be consistent with that section.
- Reworded a sentence under Section 69401.1 to clarify the intent of the regulation.
- Corrected a typographical error in subsection 69405.2(b) evidence for the bioaccumulation hazard trait by inserting the corrected value for the log octanol water partition coefficient. In the previous version the number 5 was struck out and the number 4 should have been inserted in its place but was not.
- Added to Section 69405.3 that evidence for environmental persistence includes “the identification of a substance to be persistent by an authoritative body.” Many authoritative organizations have reviewed the scientific evidence and identified substances that are persistent.
- Fixed various punctuation and grammatical errors

The record is being augmented to include the following additional material supporting the amended modified proposed regulation:

- 29 CFR, Part 1910, Occupational Safety and Health Standards, Subpart 2, Toxic Hazardous Substances, Standard #1910.1200
- Gobas FAPC, W de Wolf, LP Burkhard, E Verbruggen, K Potzke, Revisiting bioaccumulation criteria for POPs and PBT assessments, Integrated Environmental Assessment and Management, Volume 5, Number 4, pages 624–637, 2009.

OEHHA will accept written comments on these amendments to the modified proposed regulation between October 7, 2011, and October 24, 2011. All written comments must be submitted to OEHHA by mail, fax, courier, e-mail, or hand-delivery by no later than 5:00 p.m. on **October 24, 2011**. Comments should be addressed to:

Fran Kammerer
Office of Environmental Health Hazard Assessment
P. O. Box 4010
1001 I Street
Sacramento, California 95812–4010
Fax No.: 916–324–1786
E-mail: fkammerer@oehha.ca.gov

Inquiries concerning the action described in this notice may be directed to Fran Kammerer, in writing at the address given above, or by telephone at (916) 445–4693. Monet Vela is a back-up contact person and is available at (916) 323–2517.

OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

NOTICE OF MODIFICATION TO TEXT AND AUGMENTATION OF RECORD OF PROPOSED REGULATION

CALIFORNIA CODE OF REGULATIONS, SECTION 25705

SPECIFIC REGULATORY LEVELS POSING NO SIGNIFICANT RISK: 4–METHYLIMIDAZOLE (4–MEI)

OCTOBER 7, 2011

As required by Government Code section 11346.8(c), and Title 1, Section 44 of the California Code of Regulations, the Office of Environmental Health Hazard Assessment (OEHHA) is providing notice of a change made to the proposed regulation establishing a No Significant Risk Level (NSRL) for 4–MEI (Title 27, California Code of Regulations, section 25705), and augmentation of the record with additional scientific references. This proposed regulatory action is being taken pursuant to OEHHA’s authority under the Safe Drinking Water and Toxic Enforcement Act of 1986, commonly known as Proposition 65, and codified at Health and Safety Code section 25249.5 *et seq.* This proposed regulation was originally the subject of a Notice of Proposed Rulemaking published on January 7, 2011, in the California Regulatory Notice Register (Register 2011, No. 1–Z), which initiated a public comment period. A Notice Extending the Public Comment Period and Announcement of a Public Hearing was published in the California Regulatory Notice Register on February 18, 2011 (Register 2011, #7–Z), p. 228. A public hearing on this regulatory proposal was held on March 10, 2011. Written comments from the public and scientific peer reviewers were received during the comment period which ended March 24, 2011.

The proposed NSRL for 4–MEI has been changed to 29 micrograms per day. A copy of the text of the amended proposed regulation is attached. The additions and deletions from the first modifications are shown in strike-out and underline. The new modifications are shown in double-underline and double-strike-out. OEHHA is making available (1) a copy of the text of the

amended proposed regulation, (2) a modified technical support document describing the information that OEHHA relied on in its determination on the revised proposed NSRL, and (3) the public comments received during the prior comment period. These are available on the OEHHA website at www.oehha.ca.gov, or may be requested from Monet Vela at the OEHHA Legal Office at (916) 323-2517.

OEHHA will accept written comments on these amendments to the proposed regulation between October 7, 2011, and October 24, 2011. All written comments must be submitted to OEHHA by mail, fax, courier, e-mail, or hand-delivery by no later than 5:00 p.m. on **October 24, 2011**. Comments should be addressed to:

Fran Kammerer
Office of Environmental Health Hazard Assessment
P.O. Box 4010
1001 I Street
Sacramento, California 95812-4010
Fax No.: 916-324-1786
E-mail: fkammerer@oehha.ca.gov

Inquiries concerning the action described in this notice may be directed to Fran Kammerer at the address given above, or by telephone at (916) 445-4693. Monet Vela is a back-up contact person and is available at (916) 323-2517.

OEHHA is augmenting the record to include the following references used in the development of the proposed NSRL for 4-MEI:

- Back DJ, Tjia JF (1985). Inhibition of tolbutamide metabolism by substituted imidazole drugs in vivo: evidence for a structure-activity relationship. *Br J Pharmacol* **85**(1):121-6.
- Back DJ, Tjia JF, Karbwang J, Colbert J (1988). *In vitro* inhibition studies of tolbutamide hydroxylase activity of human liver microsomes by azoles, sulphonamides and quinolines. *Br J Clin Pharmacol* **26**(1):23-9.
- Casal S, Fernandes JO, Oliveira MB, Ferreira MA (2002). Gas chromatographic-mass spectrometric quantification of 4-(5)-methylimidazole in roasted coffee after ion-pair extraction. *J Chromatogr A* **976**(1-2):285-91.
- Chan PC, Hill GD, Kissling GE, Nyska A (2008). Toxicity and carcinogenicity studies of 4-methylimidazole in F344/N rats and B6C3F1 mice. *Arch Toxicol* **82**(1):45-53.
- Dalvie DK, Kalgutkar AS, Khojasteh-Bakht SC, Obach RS, O'Donnell JP (2002). Biotransformation reactions of five-membered aromatic heterocyclic rings. *Chem Res Toxicol* **15**(3):269-99.
- ENVIRON (2011). Evaluation of the Carcinogenicity of 4-Methylimidazole: Development of a No Significant Risk Level. Prepared by ENVIRON International Corporation. Principal, Annette M. Shipp, Ph.D. Monroe, Louisiana. Submitted to OEHHA on behalf of the American Beverage Association (Washington, DC) and the International Technical Caramel Association (Washington, DC). March 24, 2011.
- European Commission (2000). IUCLID Dataset for 4-methylimidazole. International Uniform Chemical Information Database. A compilation based on data reported by the European Chemicals Industry following 'Council Regulation (EEC) No. 793/93 on the Evaluation and Control of the Risks of Existing Substances'.
- Grosse Y, Baan R, Secretan-Lauby B, El Ghissassi F, Bouvard V, Benbrahim-Tallaa L, *et al.* (2011). Carcinogenicity of chemicals in industrial and consumer products, food contaminants and flavourings, and water chlorination byproducts. *Lancet Oncol* **12**(4):328-9.
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- Haschek WM, Boyd MR, Hakkinen PJ, Owenby CS, Witschi H (1984). Acute inhalation toxicity of 3-methylfuran in the mouse: pathology, cell kinetics, and respiratory rate effects. *Toxicol Appl Pharmacol* **72**(1):124-33.
- Hasegawa R, Ogiso T, Imaida K, Shirai T, Ito N (1995). Analysis of the potential carcinogenicity of coffee and its related compounds in a medium-term liver bioassay of rats. *Food Chem Toxicol* **33**(1):15-20.
- Karangwa E, Mitchell GE, Jr., Tucker RE (1990). Pharmacokinetics of 4-methylimidazole in sheep. *J Anim Sci* **68**(10):3277-84.
- Kasai H, Kumeno K, Yamaizumi Z, Nishimura S, Nagao M, Fujita Y, *et al.* (1982). Mutagenicity of methylglyoxal in coffee. *Gann* **73**(5):681-3.

- Kim OS, Kim J, Kim CS, Kim NH, Kim JS (2010). KIOM-79 prevents methylglyoxal-induced retinal pericyte apoptosis in vitro and in vivo. *J Ethnopharmacol* **129**(3):285–92.
- Klejdus B, Moravcova J, Lojkova L, Vacek J, Kuban V (2006). Solid-phase extraction of 4(5)-methylimidazole (4Mel) and 2-acetyl-4(5)-(1,2,3,4-tetrahydroxybutyl)-imidazole (THI) from foods and beverages with subsequent liquid chromatographic-electrospray mass spectrometric quantification. *J Sep Sci* **29**(3):378–84.
- MacKenzie KM, Boysen BG, Field WE, Petsel SR, Chappel CI, Emerson JL, *et al.* (1992). Toxicity and carcinogenicity studies of Caramel Colour IV in F344 rats and B6C3F1 mice. *Food Chem Toxicol* **30**(5):431–43.
- Moon JK, Shibamoto T (2011). Formation of carcinogenic 4(5)-methylimidazole in Maillard reaction systems. *J Agric Food Chem* **59**(2):615–8.
- Nagao M, Fujita Y, Sugimura T, Kosuge T (1986). Methylglyoxal in beverages and foods: its mutagenicity and carcinogenicity. *IARC Sci Publ*(70):283–91.
- National Research Council (2009). Science and Decisions: *Advancing Risk Assessment*.ed. Washington, D.C.: National Academies Press.
- Nielsen P, Friis C, Kraul I, Olsen CE (1993). Disposition of 4-methylimidazole in goats and heifers. *Res Vet Sci* **54**(1):72–9.
- NTP (2004). National Toxicology Program. *Toxicity Studies of 2- and 4- Methylimidazole (CAS No. 693–98–1 and 822–36–6) Administered in Feed to F344/N Rats and B6C3F₁ Mice*. Toxicity Report Series No. 67. NIH Publication No. 04-4409. U.S. Department of Health and Human Services. Public Health Service. National Institutes of Health.
- OEHHA (2009). Office of Environmental Health Hazard Assessment. Air Toxicology and Epidemiology Branch. Technical Support Document for Cancer Potency Factors: Methodologies for Derivation, Listing of Available Values, and Adjustments to Allow for Early Life Stage Exposures. May 2009.
- Ohgiya S, Komori M, Ohi H, Shiramatsu K, Shinriki N, Kamataki T (1992). Six-base deletion occurring in messages of human cytochrome P-450 in the CYP2C subfamily results in reduction of tolbutamide hydroxylase activity. *Biochem Int* **27**(6):1073–81.
- Ravindranath V, McMenamin MG, Dees JH, Boyd MR (1986). 2-Methylfuran toxicity in rats—role of metabolic activation in vivo. *Toxicol Appl Pharmacol* **85**(1):78–91.
- Rehm S, Ward JM, Sass B (1994). Tumours of the lungs. In: *Pathology of Tumours in Laboratory Animals. Tumours of the Mouse. IARC Scientific Publications. No. 111*. VS Turusov and U Mohr (Eds.). 2nd ed., Vol. 2. Lyon, France: International Agency for Research on Cancer, pp. 325–55.
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- Sells DM, Brix AE, Nyska A, Jokinen MP, Orzech DP, Walker NJ (2007). Respiratory tract lesions in noninhalation studies. *Toxicol Pathol* **35**(1):170–7.
- Thornalley PJ, Waris S, Fleming T, Santarius T, Larkin SJ, Winklhofer-Roob BM, *et al.* (2010). Imidazopurinones are markers of physiological genomic damage linked to DNA instability and glyoxalase 1-associated tumour multidrug resistance. *Nucleic Acids Res* **38**(16):5432–42.
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- U.S. EPA (2002). U.S. Environmental Protection Agency. Health Assessment of 1,3-Butadiene. National Center for Environmental Assessment. Office of Research and Development. Washington, DC. EPA/600/P-98/001 F October 2002
- U.S. EPA (2005). U.S. Environmental Protection Agency. Guidelines for Carcinogen Risk Assessment. Risk Assessment Forum. Washington, DC. EPA/630/P-03/001B. March 2005.
- Voogd CE, van der Stel JJ, Jacobs JJ (1979). The mutagenic action of nitroimidazoles. IV. A comparison of the mutagenic action of several nitroimidazoles and some imidazoles. *Mutat Res* **66**(3):207–21.
- Voulgaridou GP, Anastopoulos I, Franco R, Panayiotidis MI, Pappa A (2011). DNA damage induced by endogenous aldehydes: Current state of knowledge. *Mutat Res* **711**(1–2):13–27.
- Weems JM, Lamb JG, D’Agostino J, Ding X, Yost GS (2010). Potent mutagenicity of 3-methylindole requires pulmonary cytochrome P450-mediated bioactivation: a comparison to the prototype cigarette smoke mutagens B(a)P and NNK. *Chem Res Toxicol* **23**(11):1682–90.

- Wistuba II, Gazdar AF (2006). Lung cancer preneoplasia. *Annu Rev Pathol* **1**:331–48.
- Witschi HP, Tryka AF, Mauderly JL, Haschek WM, Satterfield LC, Bowles ND, *et al.* (1985). Long-term effects of repeated exposure to 3-methylfuran in hamsters and mice. *J Toxicol Environ Health* **16**(3–4):581–92.
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- Yuan JH, Burka LT (1995). Toxicokinetics of 4-methylimidazole in the male F344 rat. *Xenobiotica* **25**(8):885–94.

STATE SUPERINTENDENT OF PUBLIC INSTRUCTION

Notice of Extension of Public Comment Period

Interested Parties:

The California Regulatory Notice Register 2011, No. 30–Z, dated July 29, 2011 indicated that the State Superintendent of Public Instruction is proposing a regulation that would amend California Code of Regulations, Title 5 regarding TrustLine registration for applicable license-exempt providers of subsidized child care and development services.

The State Superintendent of Public Instruction will extend the public comment period for this proposed regulation for an additional 45 days. California Department of Education (CDE) staff, on behalf of the SSPI, will hold a public hearing at 9:00 a.m. on November 21, 2011, at 1430 N Street, Room 1801, Sacramento, California. This extended comment period will close at 5:00 p.m. on November 21, 2011. The original Notice of Proposed Regulatory Action specified a 45-day comment period.

All written comments must be received at the CDE by 5:00 p.m. on November 21, 2011. Written comments should be submitted to:

Debra Thacker, Regulations Coordinator
Administrative Support and Regulations
Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, CA 95814

Comments may also be submitted by facsimile (FAX) at 916–319–0155 or by e-mail to regcomments@cde.ca.gov.

Materials regarding the proposed rulemaking can be found at:

<http://www.cde.ca.gov/re/lr/rr/trustline.asp>.

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653–7715. Please have the agency name and the date filed (see below) when making a request.

File# 2011–0817–03

BOARD OF EQUALIZATION

Diesel Fuel Used in Farming Activities or Food Processing

This regulatory action by the Board of Equalization amends sections 1533.2 and 1598 of title 18 of the California Code of Regulations. The amendments reflect additional sales and use tax on diesel fuel imposed by recent legislation, incorporate various new exemptions from the tax, and prescribe the content of required exemption certificates that must be completed at the time of the sale of diesel fuel to exempt parties.

Title 18

California Code of Regulations

AMEND: 1533.2, 1598

Filed 09/26/2011

Effective 10/26/2011

Agency Contact:

Richard E. Bennion

(916) 445–2130

File# 2011–0819–01

BUREAU OF AUTOMOTIVE REPAIR

Administrative Citations and Fines for Unlicensed Activity

The Director of Consumer Affairs adopted sections 3394.40, 3394.41, 3394.42, 3394.43, 3394.44, 3394.45, and 3394.46 of title 16 of the California Code of Regulations establishing for the Bureau of Automotive Repair provisions for administrative citations and fines for unlicensed practice.

Title 16
California Code of Regulations
ADOPT: 3394.40, 3394.41, 3394.42, 3394.43,
3394.44, 3394.45, 3394.46
Filed 09/27/2011
Effective 10/27/2011
Agency Contact: Steven Hall (916) 255-2135

File# 2011-0914-04
CALIFORNIA ARCHITECTS BOARD
Intern Development Program

This is the resubmission of an action that will re-establish the requirement that applicants for the Architect Registration Examination must first complete the Intern Development Program (IDP) of the NCARB or the Internship in Architecture Program of Canada and the Board's own Comprehensive Intern Development Program.

Title 16
California Code of Regulations
AMEND: 109, 121
Filed 09/22/2011
Effective 10/22/2011
Agency Contact: Timothy Rodda (916) 575-7217

File# 2011-0816-03
CALIFORNIA POLLUTION CONTROL
FINANCING AUTHORITY
Equipment Only Bond Financing Program

This action is the Certificate of Compliance filing making permanent the emergency adoption of the Equipment Only Bond Financing Program.

Title 4
California Code of Regulations
ADOPT: 8035.5
Filed 09/28/2011
Agency Contact: Alejandro Ruiz (916) 653-2749

File# 2011-0907-01
CEMETERY AND FUNERAL BUREAU
Board to Bureau, Executive Officer to Bureau Chief,
Etc.

The Cemetery and Funeral Bureau (CFB) submitted this Section 100 action to update terminology in their regulations related to CFB's former status as a board. CFB also submitted this action to repeal all of their continuing education regulations based on the repeal of legislation that mandated that the bureau implement continuing education requirements (AB 1379 (Stats. 1999, ch. 241)), but withdrew this portion of the action.

Title 16
California Code of Regulations
AMEND: 1202, 1203, 1204, 1205, 1208, 1208.1,
1210, 1211, 1213, 1214, 1221, 1223, 1223.1, 1225,
1229, 1230, 1234, 1240, 1241, 1243, 1244, 1245,
1246, 1253, 1253.5, 1253.6, 1254, 1256, 1258.3,
1267, 1268, 1269, 1271 REPEAL: 1280, 1281,
1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289,
1290, 1291
Filed 09/22/2011
Agency Contact: Joy Korstjens (916) 574-7878

File# 2011-0817-07
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Campus Law Enforcement Course

This regulatory action increases the hours of the legislative mandated Campus Law Enforcement Course from 32 hours to 40 hours to allow for more instruction in various topical areas and renames the "Written Examination" area to "Learning Activities and Group Exercises" to enhance instruction and address local needs. Pursuant to the Commission, these amendments will become effective 1/1/2012 (Gov. Code, sec. 11343.4(b)).

Title 11
California Code of Regulations
AMEND: 1081
Filed 09/28/2011
Effective 01/01/2012
Agency Contact: Cheryl Smith (916) 227-0544

File# 2011-0817-06
COMMISSION ON PEACE OFFICER STANDARDS
AND TRAINING
Field Training Officer Update Course Minimum
Requirements

This regulatory action adds "Driver Safety" to the list of topics that must be included in a Field Training Officer Update Course curriculum in the incorporated by reference Commission Procedure D-13.

Title 11
California Code of Regulations
AMEND: 1005
Filed 09/28/2011
Effective 01/01/2012
Agency Contact: Cheryl Smith (916) 227-0544

File# 2011-0908-01
COMMISSION ON TEACHER CREDENTIALING
Mathematics Added Authorization and Specialist
Credential

This rulemaking action amends one section and adopts one section within Title 5 of the California Code

of Regulations. The amendment and adoptions change the title of the Professional Clear Mathematics Specialist Credential to the Clear Mathematics Instructional Leadership Specialist Credential. Specific requirements are also listed for this added Credential. This rulemaking also establishes the requirements and authorizations Mathematics Instructional Added Authorization.

Title 5
California Code of Regulations
ADOPT: 80069.2 AMEND: 80070
Filed 09/22/2011
Effective 09/22/2011
Agency Contact:
Tammy A. Duggan (916) 323-5354

File# 2011-0907-03
DEPARTMENT OF CORRECTIONS AND
REHABILITATION
Alternative Custody Program

This emergency regulatory action concerns the Alternative Custody Program and was submitted to OAL by the California Department of Corrections and Rehabilitation (CDCR) pursuant to Penal Code section 5058.3 as operationally necessary. Penal Code section 1170.5 mandates that CDCR offer a program under which pregnant, female or inmates who immediately prior to incarceration were primary caregivers of dependent children are allowed to participate in an alternative custody program in lieu of confinement in state prison. This action adopts and amends provisions to create the new Alternative Custody Program as provided in Penal Code section 1170.5.

Title 15
California Code of Regulations
ADOPT: 3078, 3078.1, 3078.2, 3078.3, 3078.4, 3078.5, 3078.6 AMEND: 3000, 3043, 3075.2, 3097, 3195, 3320, 3323
Filed 09/27/2011
Effective 09/27/2011
Agency Contact: Diane Hawkins (916) 322-8447

File# 2011-0825-05
DEPARTMENT OF DEVELOPMENTAL SERVICES
Waiver Requirements for Facilities

The Department of Developmental Services amended section 56034 of title 17 of the California Code of Regulations to correct a cross reference to competency-based training requirements in the Welfare and Institutions Code.

Title 17
California Code of Regulations
AMEND: 56034
Filed 09/21/2011
Agency Contact: Diana Nicolaou (916) 654-1760

File# 2011-0819-03
DEPARTMENT OF FOOD AND AGRICULTURE
Melon Fruit Fly Interior Quarantine

This regulatory action will remove approximately 91 square miles surrounding the Bakersfield area of Kern County from the regulation as the area under quarantine for the melon fruit fly, *Bactrocera cucurbitae*. The effect of the change is to remove authority for the State to regulate movement of hosts of melon fruit fly from, into and within this area as the quarantine is no longer necessary. As a result of the treatments and negative trapping for the fly, melon fruit fly was determined to be eradicated from Kern County on June 2, 2011.

Title 3
California Code of Regulations
AMEND: 3425(b)
Filed 09/28/2011
Effective 10/28/2011
Agency Contact: Stephen S. Brown (916) 654-1017

File# 2011-0812-02
DEPARTMENT OF INSURANCE
Workers Compensation Pure Premium Rates

This action makes annual amendments to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995 and the California Workers' Compensation Experience Rating Plan — 1995. The plans are incorporated by reference in title 10, CCR, sections 2318.6 and 2353.1 with full text being available at the Insurance Commissioner's offices as well as being published by the Workers' Compensation Insurance Rating Bureau of California, a licensed workers' compensation insurance rating organization.

Because these amendments fall within the "rate, price or tariff" exemption of Government Code section 11340.9(g) they are exempt from the Administrative Procedure Act and OAL's review. Pursuant to the Department, the effective date of these amendments is 1/1/2012.

Title 10
California Code of Regulations
AMEND: 2318.6, 2353.1
Filed 09/22/2011
Effective 01/01/2012
Agency Contact:
Christopher A. Citko (916) 492-3187

File# 2011-0812-03

DEPARTMENT OF INSURANCE**Workers' Compensation Pure Premium Rates**

This action makes annual amendments to the California Workers' Compensation Uniform Statistical Reporting Plan — 1995, the California Workers' Compensation Experience Rating Plan — 1995 and the Miscellaneous Regulations for the Recording and Reporting of Data. The plans are incorporated by reference in title 10, CCR, sections 2318.6, 2353.1 and 2354 with full text being available at the Insurance Commissioner's offices as well as being published by the Workers' Compensation Insurance Rating Bureau of California, a licensed workers' compensation insurance rating organization.

Because these amendments fall within the "rate, price or tariff" exemption of Government Code section 11340.9(g) they are exempt from the Administrative Procedure Act and OAL's review. Pursuant to the Department, the effective date of these amendments is 1/1/2011.

Title 10

California Code of Regulations

AMEND: 2318.6, 2353.1, 2354

Filed 09/22/2011

Effective 01/01/2011

Agency Contact:

Christopher A. Citko (916) 492-3187

File# 2011-0919-01

DEPARTMENT OF PUBLIC HEALTH**Point-of-Entry Treatment Devices**

This regulatory action is to facilitate expedited implementation of point-of-entry (POE) water treatment devices in public water systems (in lieu of centralized treatment) where centralized treatment is deemed not to be economically feasible. This action is exempt from the Administrative Procedure Act pursuant to Health and Safety Code section 116380(b).

Title 22

California Code of Regulations

ADOPT: 64419, 64420, 64420.1, 64420.2, 64420.3, 64420.4, 64420.5, 64420.6, 64420.7 AMEND: 64418, 64418.1, 64418.2, 64418.7

Filed 09/22/2011

Effective 09/22/2011

Agency Contact: Linda M. Cortez (916) 440-7683

File# 2011-0901-01

DEPARTMENT OF PUBLIC HEALTH**Update List of Reportable Diseases**

The California Department of Public Health is amending section 2505, title 17, California Code of

Regulations, entitled "Notification by Laboratories". The changes are exempt from review by the Office of Administrative Law pursuant to Health and Safety Code Section 120130.

Title 17

California Code of Regulations

AMEND: 2505

Filed 09/27/2011

Effective 10/27/2011

Agency Contact: Laurel Prior (916) 440-7673

File# 2011-0920-04

DEPARTMENT OF PUBLIC HEALTH**\$7 Fee Increase Prenatal Tests**

The Department of Public Health submits this emergency action raising the program participation fee for maternal serum alpha fetoprotein and one or more additional markers used for screening neural tube defects and Down Syndrome. The fee is being increased from \$155 to \$162. This action is deemed an emergency pursuant to Health and Safety Code section 124977(d)(1) and necessary for the immediate preservation of the public peace, health and safety, and general welfare, is exempt from OAL review, and is submitted for filing with the Secretary of State and printing only. The action remains in effect until revised or repealed by the Department of Public Health.

Title 17

California Code of Regulations

AMEND: 6540

Filed 09/23/2011

Effective 09/23/2011

Agency Contact: Dave Rappolee (916) 322-3630

File# 2011-0812-07

DEPARTMENT OF REAL ESTATE**Appraiser Influence**

This action adopts one regulation further defining what constitutes "improper influence" of an appraisal or appraiser as prohibited by Civil Code section 1090.5.

Title 10

California Code of Regulations

ADOPT: 2785

Filed 09/26/2011

Effective 10/26/2011

Agency Contact: Daniel E. Kehew (916) 227-0425

File# 2011-0812-06

DEPARTMENT OF REAL ESTATE**Trust Fund Placement**

This rulemaking action adds section 2830 to Title 10 of the California Code of Regulations to reaffirm the principal-agent relationship of the broker-client relationship and the corresponding fiduciary duty owed by

brokers to their clients when depositing client trust funds with a financial institution. Section 2830 lists the kinds of incentives which brokers cannot receive or request from financial institutions in connection with such client trust fund deposits or potential deposits.

Title 10
California Code of Regulations
ADOPT: 2830
Filed 09/26/2011
Effective 10/26/2011
Agency Contact: Daniel E. Kehew (916) 227-0425

File# 2011-0812-05
DEPARTMENT OF REAL ESTATE
Bar Order Implementation

In this rulemaking action, the Department of Real Estate amends section 2930 and adopts sections 2725.5, 2960, 2961, 2962, and 2963 of title 10 of the California Code of Regulations. This action clarifies various aspects of the debarment procedure described in Business and Professions Code section 10087, including broker responsibilities, grounds for debarment or suspension, and the effect of notice and order issuance. Also provided are relevant definitions and standard proposed decision language.

Title 10
California Code of Regulations
ADOPT: 2725.5, 2960, 2961, 2962, 2963 AMEND: 2930
Filed 09/26/2011
Effective 10/26/2011
Agency Contact: Daniel E. Kehew (916) 227-0425

File# 2011-0810-03
FISH AND GAME COMMISSION
2011 Sport Fishing

This action modifies the 2011 Sport Fishing Regulations by making the following changes:

Allowing catch and release fishing all year at Arroyo Del Valle (Alameda Creek and tributaries) between Bernal Ave. and the Thiessen St. intersection with Vineyard Avenue.

Prohibiting filleting, steaking, or chunking of fish on vessels prior to bringing fish to shore of any species with a size limit unless a fillet size is otherwise specified in the regulations.

Changing crustacean hoop net fishing gear restrictions to allow up to six rigid support arms between the upper and lower rings (instead of the existing four-arm limit).

Title 14
California Code of Regulations
AMEND: 7.50(b)(1.5), 27.65, 29.80
Filed 09/22/2011
Effective 09/22/2011
Agency Contact: Jon Snellstrom (916) 654-9868

File# 2011-0812-01
FRANCHISE TAX BOARD
Specialized Tax Service Fees

The Franchise Tax Board (FTB) submitted this rule-making action to amend title 18, California Code of Regulations, section 19591, which provides for specialized tax services provided by FTB and the fees for these services. Amendments to section 19591 add a service and fee for requests for limited partnership revival confirmation letters, and increase and decrease fees for existing services.

Title 18
California Code of Regulations
AMEND: 19591
Filed 09/26/2011
Effective 10/26/2011
Agency Contact: Colleen Berwick (916) 845-3306

File# 2011-0810-01
FRANCHISE TAX BOARD
Single Sales Factor Formula Election

This action clarifies the single sales factor filing election newly available to multistate taxpayers that must apportion their business income derived from sources in California to determine the amount subject to taxation in California.

Title 18
California Code of Regulations
ADOPT: 25128.5
Filed 09/22/2011
Effective 10/22/2011
Agency Contact: Colleen Berwick (916) 845-3306

File# 2011-0823-02
OFFICE OF ENVIRONMENTAL HEALTH
HAZARD ASSESSMENT
Specific Regulatory Levels: Chemicals Causing Reproductive Toxicity — Maximum Allowable Dose Level for Avermectin B1

The Office of Environmental Health Hazard Assessment amended title 27, California Code of Regulations, section 25805 by adding Avermectin B1 at levels of 4.4 micrograms per day to the list of chemicals in section 25805(b).

Title 27
California Code of Regulations
AMEND: 25805
Filed 09/26/2011
Effective 10/26/2011
Agency Contact: Susan Luong (916) 327-3015

File# 2011-0816-01
PUBLIC EMPLOYEES RETIREMENT SYSTEM
Prohibition on Rescissions

This regulatory action prohibits the retroactive cancellation or deletion of enrollment in health care benefits due to a reduction in hours or time base, except in cases of fraud or misrepresentation. Other than in those cases, such rescission is only allowed prospectively.

Title 2
California Code of Regulations
ADOPT: 599.506(f) AMEND: 599.502(f)
Filed 09/27/2011
Effective 09/27/2011
Agency Contact: James Croft (916) 795-9528

File# 2011-0805-15
PUBLIC EMPLOYEES RETIREMENT SYSTEM
Modifications to Apply Updated Gov. Code for Authority and Reference

This filing makes changes without regulatory effect, updating authority and reference citations, cross-reference citations, and the name of the division that processes requests for exception from the average increase procedure.

Title 2
California Code of Regulations
AMEND: 565, 565.4, 566, 566.1, 569, 570, 571, 572, 573, 576, 583, 593, 598.60, 599
Filed 09/22/2011
Agency Contact: James Croft (916) 795-9528

File# 2011-0817-05
SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION
San Francisco Bay Plan

This action amends San Francisco Bay Plan map 5 to change the boundary of the waterfront priority use area at Candlestick Point to match the boundary of the Candlestick Point State Recreation Area, this upon request of the Department of Parks and Recreation and the Redevelopment Agency of the City and County of San Francisco.

Title 14
California Code of Regulations
AMEND: 11900
Filed 09/28/2011
Effective 09/28/2011
Agency Contact: Linda Scourtis (415) 5578789

File# 2011-0810-02
STATE ALLOCATION BOARD
Leroy F. Greene School Facilities Act of 1998; CSFP and COS Advance Funds

This certificate of compliance makes permanent the prior emergency regulatory action (OAL file no. 2011-0422-09E) that expanded the types of projects eligible to participate in priority funding round procedures established by the State Allocation Board for school districts with construction-ready approved but unfunded projects to apply for State funds as the funds become available. Charter School Facility Program (CSFP) projects may apply for advance release of design and site acquisition funds and Critically Overcrowded School Facilities Program projects may apply for advance release of environmental hardship site acquisition funds. In addition, the prior emergency action provided a 180 calendar-day timeline for fund release requests for CSFP advance site acquisition funds.

Title 2
California Code of Regulations
AMEND: 1859.90.2
Filed 09/21/2011
Agency Contact: Robert Young (916) 375-5939

**CCR CHANGES FILED
WITH THE SECRETARY OF STATE
WITHIN May 4, 2011 TO
September 28, 2011**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulations titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2
09/27/11 ADOPT: 599.506(f) AMEND: 599.502(f)
09/21/11 AMEND: 1859.90.2
09/08/11 AMEND: 1859.2, 1859.82
09/07/11 ADOPT: 10000, 10001, 10002, 10003, 10004, 10005, 10006, 10007, 10008, 10009, 10010, 10011, 10012, 10013,

	10014, 10015, 10016, 10017, 10018,	06/15/11	AMEND: 3437(b)
	10019, 10020, 10021, 10022, 10023,	05/31/11	AMEND: 3437(b)
	10024, 10025, 10026, 10027, 10028,	05/11/11	ADOPT: 6446, 6446.1 AMEND: 6400,
	10029, 10030, 10031, 10032, 10033,		6452.4, 6624, 6860
	10034, 10035, 10036, 10037, 10038,	Title 4	
	10039, 10040, 10041, 10042, 10043,	09/28/11	ADOPT: 8035.5
	10044, 10045, 10046, 10047, 10048,	09/20/11	AMEND: 12590
	10049, 10050, 10051, 10052, 10053,	09/07/11	ADOPT: 1500.1 AMEND: 1498
	10054, 10055, 10056, 10057, 10058,	08/16/11	ADOPT: 8078.2 AMEND: 8070, 8072,
	10059, 10060, 10061, 10062, 10063,		8073, 8074
	10064, 10065, 10066	08/10/11	ADOPT: 10030, 10031, 10032, 10033,
09/06/11	AMEND: 29000		10034, 10035, 10036, 10037
09/01/11	ADOPT: 58600 REPEAL: 58600	07/27/11	AMEND: 5064
09/01/11	AMEND: 54200	07/21/11	ADOPT: 1844.1
09/01/11	AMEND: 54600	07/20/11	AMEND: 4800, 4801, 4802
08/08/11	ADOPT: 59700	07/20/11	AMEND: 150
07/27/11	AMEND: 1859.90.2, 1859.81	07/12/11	AMEND: 1606, 1974, 1954.1, 1957,
07/15/11	AMEND: 1151, 1153, 1155.500, 1165,		1959, 1976, 1976.8, 1976.9, 1977, 1978,
	1170, 1172.20		1979, 1979.1
07/11/11	ADOPT: 21903.5 AMEND: 21903	07/01/11	ADOPT: 5000, 5010, 5020, 5021, 5030,
07/11/11	ADOPT: 570.5 AMEND: 571(b)		5031, 5032, 5033, 5034, 5035, 5036,
07/06/11	AMEND: 1859.2, 1859.81, 1859.148.2,		5037, 5038, 5039, 5050, 5051, 5052,
	1859.166.2		5053, 5054, 5060, 5061, 5062, 5063,
07/06/11	AMEND: 18360		5064, 5065, 5066, 5080, 5081, 5082,
07/05/11	AMEND: 649.3, 649.18, 649.20, 649.24		5100, 5101, 5102, 5103, 5104, 5105,
06/30/11	AMEND: 633.9		5106, 5107, 5120, 5130, 5131, 5132,
06/21/11	REPEAL: 59152		5133, 5140, 5141, 5142, 5143, 5144,
06/07/11	AMEND: 640		5150, 5151, 5152, 5153, 5154, 5170,
05/12/11	AMEND: 1859.83		5180, 5181, 5182, 5183, 5190, 5191,
05/04/11	ADOPT: 1190, 1190.01, 1190.02,		5192, 5193, 5194, 5200, 5210, 5211,
	1190.03, 1190.04, 1190.05 AMEND:		5212, 5220, 5221, 5230, 5231, 5232,
	1181.1, 1181.2		5240, 5241, 5250, 5251, 5260, 5265,
			5266, 5267, 5268, 5269, 5270, 5275,
			5280, 5281, 5282, 5283, 5290, 5291,
			5300, 5310, 5311, 5312, 5313, 5314,
			5315, 5320, 5321, 5330, 5340, 5350,
			5360, 5361, 5362, 5363, 5369, 5370,
			5371, 5380, 5400, 5410, 5411, 5420,
			5421, 5422, 5423, 5430, 5431, 5432,
			5433, 5434, 5435, 5440, 5450, 5460,
			5461, 5470, 5480, 5490, 5491, 5492,
			5493, 5494, 5500, 5510, 5520, 5530,
			5531, 5532, 5533, 5534, 5540, 5550,
			5560, 5570, 5571, 5572, 5573, 5580,
			5590
		06/24/11	ADOPT: 10030, 10031, 10032, 10033,
			10034, 10035, 10036
		06/21/11	AMEND: 1876
		06/15/11	ADOPT: 340 AMEND: 221, 222, 226,
			230, 288, 300 REPEAL: 262
		05/31/11	AMEND: 8078.2
Title 3		Title 5	
09/28/11	AMEND: 3425(b)	09/22/11	ADOPT: 80069.2 AMEND: 80070
09/19/11	AMEND: 3423(b)		
09/15/11	AMEND: 3591.2(a)		
09/07/11	AMEND: 3591.2(a)		
08/23/11	ADOPT: 6131 AMEND: 6128, 6130		
08/23/11	ADOPT: 1392.4.1 AMEND: 1392,		
	1392.1, 1392.2, 1392.4, 1392.6,		
	1392.8.1, 1392.9, 1392.11		
08/03/11	AMEND: 3437(b)		
07/28/11	REPEAL: 1400.9.1		
07/15/11	AMEND: 3434(b)		
07/15/11	AMEND: 3589		
07/15/11	REPEAL: 3286		
07/08/11	AMEND: 3658		
07/05/11	ADOPT: 3701, 3701.1, 3701.2, 3701.3,		
	3701.4, 3701.5, 3701.6, 3701.7, 3701.8		
	AMEND: 3407		
06/28/11	AMEND: 3591.15(a)		
06/27/11	AMEND: 3437(b)		
06/22/11	AMEND: 3435(b)		

09/19/11	ADOPT: 30001.5	1612.2, 1612.3, 1612.4, 1613 (section heading), 1613.1, 1613.2, 1613.3, 1613.4, 1613.5, 1613.6, 1613.7, 1613.8, 1613.9, 1613.10, 1614, 1615 (section heading), 1615.1, 1615.2, 1616 (section heading), 1616.1, 1616.2, 1616.3, 1616.4, 1616.5, 1616.6, 1616.7, 1617 (section heading), 1617.1, 1617.2, 1617.3, 1618 (section heading), 1618.1, 1618.2, 1618.3, 1618.4, 1619 (section heading), 1619.1, 1619.2, 1619.3, 1619.4, 1619.5
09/19/11	ADOPT: 74112, 75020, 75030, 75040, 75050, 75150, 75200, 75210 AMEND: 74110	AMEND: 1694, 2940.7, 6060
08/15/11	ADOPT: 19817.2, 19817.5, 19840, 19846.1 AMEND: 19815, 19816, 19816.1, 19817.1, 19846	06/27/11 REPEAL: 10119, 10120
08/15/11	ADOPT: 40050.2	06/20/11 AMEND: 10250.1
08/15/11	ADOPT: 40050.3	06/02/11 AMEND: 5154(j)(1)
08/15/11	AMEND: 40100.1	05/31/11 AMEND: 5155
08/15/11	AMEND: 40404	05/20/11 AMEND: 341.13, 341.14, 341.16, 341.17
08/15/11	AMEND: 40405.1	
08/15/11	ADOPT: 40509	
08/15/11	ADOPT: 40513	
08/15/11	ADOPT: 40514	
08/15/11	ADOPT: 40515	
08/15/11	ADOPT: 40516	
08/15/11	ADOPT: 41021	
08/15/11	ADOPT: 41022	
08/04/11	ADOPT: 1039.1	
08/04/11	AMEND: 80047, 80047.1, 80047.2, 80047.3, 80047.4, 80047.5, 80047.6, 80047.7, 80047.8, 80047.9, 80048.6	Title 9
06/21/11	AMEND: 58771	08/08/11 ADOPT: 4500, 4510, 4520
06/20/11	ADOPT: 80048.9, 80048.9.4 AMEND: 80046.1, 80048.5, 80070.1, 80070.2, 80070.3, 80070.4, 80070.5, 80070.6 REPEAL: 80046, 80070.7, 80070.8	Title 10
05/23/11	ADOPT: 13075.3, 13075.6, 13075.7, 13075.8, 13075.9 AMEND: 13075.1, 13075.2, 13075.4 (renumbered from 13075.3), 13075.5 (renumbered from 13075.4)	09/26/11 ADOPT: 2785
		09/26/11 ADOPT: 2830
		09/26/11 ADOPT: 2725.5, 2960, 2961, 2962, 2963 AMEND: 2930
		09/22/11 AMEND: 2318.6, 2353.1
		09/22/11 AMEND: 2318.6, 2353.1, 2354
		08/11/11 AMEND: 2731
		08/01/11 AMEND: 3012.3
		07/27/11 AMEND: 2770.1, 2847.3
		07/25/11 AMEND: 2222.12
		07/13/11 AMEND: 210, 221
		07/08/11 AMEND: 2699.6707
		07/07/11 AMEND: 260.204.9
		06/30/11 AMEND: 2699.6700, 2699.6709, 2699.6721, 2699.6725
		05/31/11 REPEAL: 2274.74, 2274.77
		05/23/11 AMEND: 2698.99
		05/16/11 AMEND: 2498.6
		05/04/11 ADOPT: 260.004.1
Title 7		Title 11
08/16/11	AMEND: 218	09/28/11 AMEND: 1081
Title 8		09/28/11 AMEND: 1005
09/19/11	AMEND: 15201, 15214, 15251, 15300, 15400.2, 15405, 15430.1, 15478, 15481, 15484	09/02/11 ADOPT: 101.2
09/06/11	AMEND: 8608	09/02/11 AMEND: 101.1
08/29/11	AMEND: 1504, 3207	06/06/11 AMEND: 51.7
08/10/11	ADOPT: 3302 AMEND: 3308	06/01/11 AMEND: Article 20, section 51.2
08/05/11	ADOPT: 1603.1 AMEND: 1504, 1600, 1602, 1603	05/31/11 AMEND: Article 20, section 51.25
08/01/11	AMEND: 16423 REPEAL: 16450, 16451, 16452, 16453, 16454, 16455, 16460, 16461, 16462, 16463, 16464	05/25/11 ADOPT: Article 20, section 51.27
07/28/11	ADOPT: 6799.1 AMEND: 6755	05/24/11 AMEND: Article 20, section 51.15
07/07/11	ADOPT: 1610 (section heading), 1610.1, 1610.2, 1610.3, 1610.4, 1610.5, 1610.6, 1610.7, 1610.8, 1610.9, 1611 (section heading), 1611.1, 1611.2, 1611.3, 1611.4, 1611.5, 1612 (section heading), 1612.1,	05/24/11 AMEND: Article 20, section 51.24

Title 13

09/15/11 AMEND: 2190
 08/23/11 ADOPT: 345.00 AMEND: 345.02,
 345.04, 345.15, 345.18, 345.20, 345.22,
 345.23, 345.26
 08/16/11 AMEND: 1800
 07/06/11 ADOPT: 1231.2 AMEND: 1200, 1201,
 1217, 1221, 1222, 1232
 07/01/11 AMEND: 156.00, 156.01

Title 13, 17

06/20/11 AMEND: Title 13: 2299.5 and Title 17:
 93118.5

Title 14

09/28/11 AMEND: 11900
 09/22/11 AMEND: 565, 565.4, 566, 566.1, 569,
 570, 571, 572, 573, 576, 583, 593,
 598.60, 599
 09/22/11 AMEND: 7.50(b)(1.5), 27.65, 29.80
 09/16/11 AMEND: 11900, 11970
 09/08/11 AMEND: 300, 311
 08/30/11 ADOPT: 3550.16
 08/29/11 AMEND: 502
 08/08/11 ADOPT: 1052.5 AMEND: 895, 916.9,
 936.6, 956.9, 1052, 1052.1, 1052.2
 08/03/11 ADOPT: 1051.3, 1051.4, 1051.5, 1051.6,
 1051.7 AMEND: 895
 07/22/11 AMEND: 852.60.2, 852.60.3, 852.60.4,
 852.61.1, 852.61.2, 852.61.3, 852.61.5,
 852.61.6, 852.61.7, 852.61.8, 852.61.9,
 852.61.10, 852.61.11, 852.61.12,
 852.62.1, 852.62.2, 852.62.3
 07/14/11 AMEND: 791, 791.7, 792, 793, 794, 795,
 796 REPEAL: 791.5
 07/12/11 ADOPT: 749.6
 07/08/11 ADOPT: 708.1, 708.2, 708.3, 708.4,
 708.5, 708.6, 708.7, 708.8, 708.9,
 708.10, 708.11, 708.12, 708.13, 708.14,
 708.15, 708.16, 708.17 AMEND: 360,
 361, 362, 363, 364, 365, 366, 353, 354,
 478.1, 702, 711 REPEAL: 708
 06/21/11 AMEND: 7.50
 06/16/11 AMEND: 7.00, 7.50
 06/13/11 AMEND: 632
 06/09/11 AMEND: 27.20, 27.25, 27.30, 27.32
 (renumbered to 27.35), 27.35
 (renumbered to 27.40), 27.45, 27.50,
 27.65, 28.26, 28.27, 28.28, 28.29, 28.48,
 28.49, 28.54, 28.55, 28.56, 28.58, 28.65,
 52.10, 150.16 REPEAL: 27.40, 28.51,
 28.52, 28.53, 28.57
 05/19/11 AMEND: 632
 05/12/11 ADOPT: 28301
 05/11/11 AMEND: 27.80

Title 15

09/27/11 ADOPT: 3078, 3078.1, 3078.2, 3078.3,
 3078.4, 3078.5, 3078.6 AMEND: 3000,
 3043, 3075.2, 3097, 3195, 3320, 3323
 08/16/11 ADOPT: 3769, 3769.1, 3769.2, 3769.3,
 3769.4, 3769.5, 3769.6
 08/03/11 AMEND: 3000
 07/28/11 ADOPT: 3084.8, 3084.9, 3086 AMEND:
 3000, 3084, 3084.1, 3084.2, 3084.3,
 3084.4, 3084.5, 3084.6, 3084.7, 3137,
 3173.1, 3179, 3193, 3220.4, 3482, 3630,
 3723 REPEAL: 3085
 07/19/11 AMEND: 3090, 3176.4, 3315, 3323
 07/07/11 ADOPT: 3076.4, 3076.5 AMEND: 3076,
 3076.1, 3076.2, 3076.3
 06/27/11 AMEND: 3140
 06/20/11 ADOPT: 8007, 8008 AMEND: 8000
 06/15/11 ADOPT: 3571, 3582, 3590, 3590.1,
 3590.2, 3590.3 AMEND: 3000
 06/15/11 ADOPT: 3571, 3582, 3590, 3590.1,
 3590.2, 3590.3 AMEND: 3000
 06/14/11 AMEND: 3000, 3045.3, 3123, 3134,
 3250.4, 3269.1, 3274, 3383, 3482
 06/02/11 AMEND: 3378
 05/26/11 ADOPT: 1747.1, 1749.1, 1750.1
 AMEND: 1706, 1747, 1748, 1749, 1750,
 1752, 1756, 1757, 1767
 05/26/11 AMEND: 3025, 3291, 3296, 3300, 3301,
 3383, 3397 REPEAL: 3302
 05/13/11 REPEAL: 1
 05/11/11 AMEND: 3335

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